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Local Government in Te Rohe Potae

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Te Rohe Potae Casebook Research Program

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List of abbreviations

ATL	Alexander Turnbull Library
ArchivesNZ	Archives New Zealand
Auck	Auckland
DB	Supporting document bank
DC	District Council
fol	Folio
Hearn DB	Supporting document bank of T Hearn, 'Land Titles, Land Development and Returned Soldier Settlement in Te Rohe Potae', (CFRT, 2009)
NLC	Native Land Court
MB	Minute book
Towers DB	Supporting document bank of R Towers, 'Rating of the East Coast', (CFRT, 2009)
vol	Volume
Wgtn	Wellington

Introduction

Te Rohe Potae was perhaps New Zealand's final frontier, a full two decades slipping by after the celebrated 'opening' of the district in 1886 to the point where Pakeha settlement warranted the trappings of local government. This 'settlement' of the region was also largely a Crown affair, with the government's early decision to prohibit private land transactions and instead convert its own recent acquisitions from Maori into surveyed Crown parcels – complete with road access – to be offered up to the new arrivals. The ensuing tug of war between local and central government as to who was responsible for getting these pioneers from the train station to their balloted lands remained a central theme of local government for the next half century.

The King's country had been earmarked for local body status from the outset of county government in 1876, but it was not until 1905 that local government in the counties of Kawhia and Waitomo became operative. The gazetting of these counties closely followed on the heels of Parliament's decision to deem all Maori freehold land liable for rates. Almost overnight the traditional homelands of Te Rohe Potae were rendered a liability.

The colonising force of a local government system that depends on an annual tax on private land cannot be overstated. The immigrant settlers needed to transform 'virgin' lands into productive farms, and quickly. In any new colony it was a precarious business, for the success of farming depended on access to markets, the cost of this infrastructure in turn reliant on a wide rating base. It is no accident that the 'Native Land Question' and the 'Native Rating Question' were discussed in the same breath, and the subsequent efforts to extract rates from Maori land became the single-most enduring feature of King Country local government. Waipa County, built on confiscated land, did not share in these troubles. Raglan County, settled over a generation before, had largely solved the issue by insisting on the Crown purchase of as much Maori land as possible. South of the old aukati line, the threat that continued Maori tenure posed to the wellbeing of local government – to Pakeha settlement itself – lay behind the 1907 forced vesting of land in the Maori Land Boards; and behind Ngata's consolidation scheme from 1928 and his development schemes that followed. Unable to convince central government to assume the cost of local body inability to collect rates from Maori land, by 1950 King County local government succeeded instead in obtaining legislation that would force the issue: either pay rates and 'use' unproductive land, or it would be taken, and vested in someone else.

In the predominant discourse for half a century about the ‘burden’ of unproductive Maori land, less attention was paid to the restrictions which prevented Maori from participating in the new economic order. And in the Gentlemen’s Club of local government – admission ratepayers only – self-interest blinded the members to the impact of local body neglect on Maori communities. One of the saddest ironies in this report is that the inability of Maori to contribute as ratepayers – expressed in the local body clamour over ‘idle’ lands – was arguably of the local bodies’ own making. Many Maori attempts to engage in farming were stymied from the outset for the want of a road.

This report is based around the twin themes of rating and service provision. As a necessary prelude, both the legislative development of rating and the nuts and bolts of how the local government system operated nationally are set out in Chapter 1. Over the course of the next six chapters the report traces the implementation of local government on a chronological basis, with the particular focus on the impact of rating. Chapter 8 deals with the issues surrounding representation. In the final two chapters the report explores the issues surrounding the local body provision of roads to facilitate farming, culminating in the case study of Taharoa.

I The Author

My name is Jane Luiten. I am Pakeha, with children who whakapapa to Ngati Maniapoto, Ngati Hikairo and Ngati Apakura. I have a BA (Honours) degree from the University of Waikato and I live in Ruatoria. From 1990-1993, I was employed as a researcher for the Waitangi Tribunal Division, and in 1995 for Te Runanga o Tuwharetoa Ki Kawerau to report on the historical background to their claim. Since 2007, I have been self-employed as a research consultant and in 2009 I reported on local government issues for the East Coast Inquiry District, commissioned by CRFT through HistoryWorks Ltd. The East Coast report was concerned primarily with the impact of rural local government entities – counties – on tangata whenua, including issues surrounding representation and the provision of service. Rating was dealt with separately in the East Coast Inquiry District.

This report is built on the foundations of this previous work. It represents a year of full-time research. Although the report is entirely my own work, I am grateful for the support and guidance from my supervisor at the Tribunal, James Mitchell, and from Cathy Marr. I would like to acknowledge the research assistance provided by Rose Swindell and Sarah Hemmingsen, and that of staff at the various research institutions, particularly those guardians of local body archives within the district councils of Te Rohe Potae. Special thanks also go to Tutahanga Douglas who produced three of the maps in the report, providing an effective visual illustration of issues of access and local body pressure for rates; and to Noel

Harris who produced the map tracking local government development. I am also grateful to the careful, considered QA review provided by Bruce Stirling, which resulted in an improved report.

II About Local Government

Local government is used in this report to refer to the formal, statute-defined system of local authorities set down by Parliament. It goes without saying that tangata whenua had their own established forms of governance, or hapu autonomy, which took place in geographically defined localities, and which did not emanate from Parliament. Nor does the report deal with the statutory provision of ‘local self-government’ to Maori at various historical intervals. Such initiatives are best dealt within the Political Engagement reports.

The system of local government that has evolved in New Zealand reflects both the colonial links with the British Empire and the particular circumstances of the colony.¹ After an initial decade where power, no matter how trivial, was kept in the hands of the Crown-appointed governors, from 1852 local government was administered by provincial governments with wide-ranging powers which included legislative and executive components. Within this provincial framework, provision was made for the creation of road boards, from closely defined road districts within which settlers could rate themselves and use the money for the upkeep of local roads. The development of road communications, port facilities and other public works was integral to the success of colonisation and for the duration of the provincial period, this development was funded primarily by the colonial treasury, not least through the profit generated by the Crown’s on-sale of cheaply acquired Maori land to settlers.

With the end of provincialism in 1875, local government functions were delegated to new territorial authorities: counties, boroughs and town districts, with general rating introduced to pay for the ongoing development of local roads and other public works. Under the Counties Act 1876, New Zealand was carved up into 63 counties, incorporated entities larger than the existing road boards, but not including the boroughs within their boundaries. A county council was to be elected every three years by the county ratepayers, those individuals listed in the ‘occupiers’ column of land titles on the county’s valuation roll. The council was empowered to levy a general rate and to raise special loans for capital works with the consent of ratepayers. Each county was to be divided into ridings, geographic areas that reflected a community of interest, much like the existing road boards, which became the basis of both representation and financial administration. The powers of the council were clearly defined, including the control of

¹ The historical development of local government in colonial and provincial New Zealand is dealt with in detail in Jane Luiten, ‘Local Government on the East Coast’, a report commissioned by HistoryWorks for the Crown Forestry Rental Trust, August 2009, pp28-57.

‘county’ roads, the construction of public works, the funding of charitable institutions and the making of regulatory bylaws. Under the Financial Arrangements Act of the same year, local government was to be subsidised by government subsidies from the Consolidated Fund.

Special-purpose boards were also created to deal with specific local issues that territorial authorities were either unable or unwilling to undertake. The system set up in 1876 prevailed for the next century, characterised by the following general principles:

- Every local authority is created by an Act of Parliament, either by a special or local statute, or by general legislation.
- Every local authority is subordinate to central government, in that the powers of local authorities are limited to those conferred on them by Parliament through statute. It is unlawful for local bodies to exercise powers or fund works for any purpose other than those specified in its constituting Act.
- Every local authority has a specific district in which it operates.
- Every local authority is controlled by its own council or board.
- All local authorities rely on local taxes on real property – rates – or levies on other local authorities. They are also empowered to borrow money for capital works (closely monitored by central government until 1986).
- All local authorities can determine their own expenditure priorities, and are free to set their own overall levels of expenditure.

The role of local government has changed over time, with an increasing trend towards centralisation. Functions once seen as being of local concern, such as the provision of health, education and police, have in time become the responsibility of central government. The second local government reform in the late 1980s resulted in the privatisation of many former local government functions, such as electricity reticulation, the rationalisation of existing local authorities, and the delegation of responsibility for resource management to newly created regional authority units.

III About King Country Local Government

Until the military conquest of the Waikato by the Crown, the extent of Pakeha settlement in Auckland Province’s vast Southern District was too small to warrant further local government delegation. The closest Pakeha settlement of any size was clustered around the Whaingaroa Harbour. Land purchase by the Crown in this district began in 1851 and continued throughout the 1850s until by the end of this

decade most of the area on the coast between Aotea and Whaingaroa and inland to the Waitetuna Valley, apart from areas reserved for Maori, had transferred into Pakeha hands.² In 1858 the Pakeha presence there was reflected in the new name of Raglan, which achieved its own representation on the Auckland Provincial Council in 1863. Military conflict in 1863, followed by the blanket confiscation of land as far south as the Puniu River, cleared the Waikato and Waipa districts of their former communities, and established garrison towns in their stead. It also created 'Te Rohe Potae', the bastion of Maori autonomy beyond the Puniu, where the Crown's authority did not extend.

The earliest roads in the Waipa and Raglan districts were constructed by government troops as an integral part of the Crown's military strategy. In terms of local government, from the mid-1860s provincial highway districts were established to develop road infrastructure in localised areas of Pakeha settlement. By 1873 highway districts of the Auckland Province operating on the fringes of Te Rohe Potae included Alexandra Township, Karioi, Mangapiko, Pirongia, Rangiaohia, Town of Raglan and Whaingaroa. On the southern border the Taranaki provincial road boards of Urenui and Tikirangi were in operation.

The counties of Raglan, Waipa, Taranaki, Kawhia and West Taupo were all constituted under the Counties Act 1876. In the case of Raglan and Waipa, both county councils subsequently declined to implement the full operation of the Act, resolving instead to continue operating as road boards. This remained the position for the next decade – meaning that the county councils had no power to raise loans, or enter contracts, or make bylaws, or employ staff – or to levy rates. In the case of Kawhia and West Taupo counties the Act was suspended in both on account of the fact, the House was told, that they were 'entirely Native districts'.³ This was in fact, the only reference to any Maori consideration in the debate over the nation's constitutional reform.

In the southern end of the Inquiry District, in 1885 the new county of Clifton was constituted from the northern part of Taranaki County. Clifton County's northern boundary was the Mokau River, and from the headwaters of the Mokau, the county line ran to Pureora, then to the headwaters of Ongarue and followed this river to its junction with the Wanganui river, then down the Wanganui to near Ohura, then over the hills westward to the coast south of Waitara.⁴ Otorohanga and Te Kuiti, both existing Maori settlements on the main trunk line, were declared native townships in 1902 and vested in the Waikato-Maniapoto Maori Land Board.

² CW Vennell; S Williams, *Raglan County Hills and Sea: a Centennial History 1876-1976*, (Auckland, Wilson & Horton, 1976), pp 61-62

³ Dr Pollen, 11 October 1876, NZPD, p 200

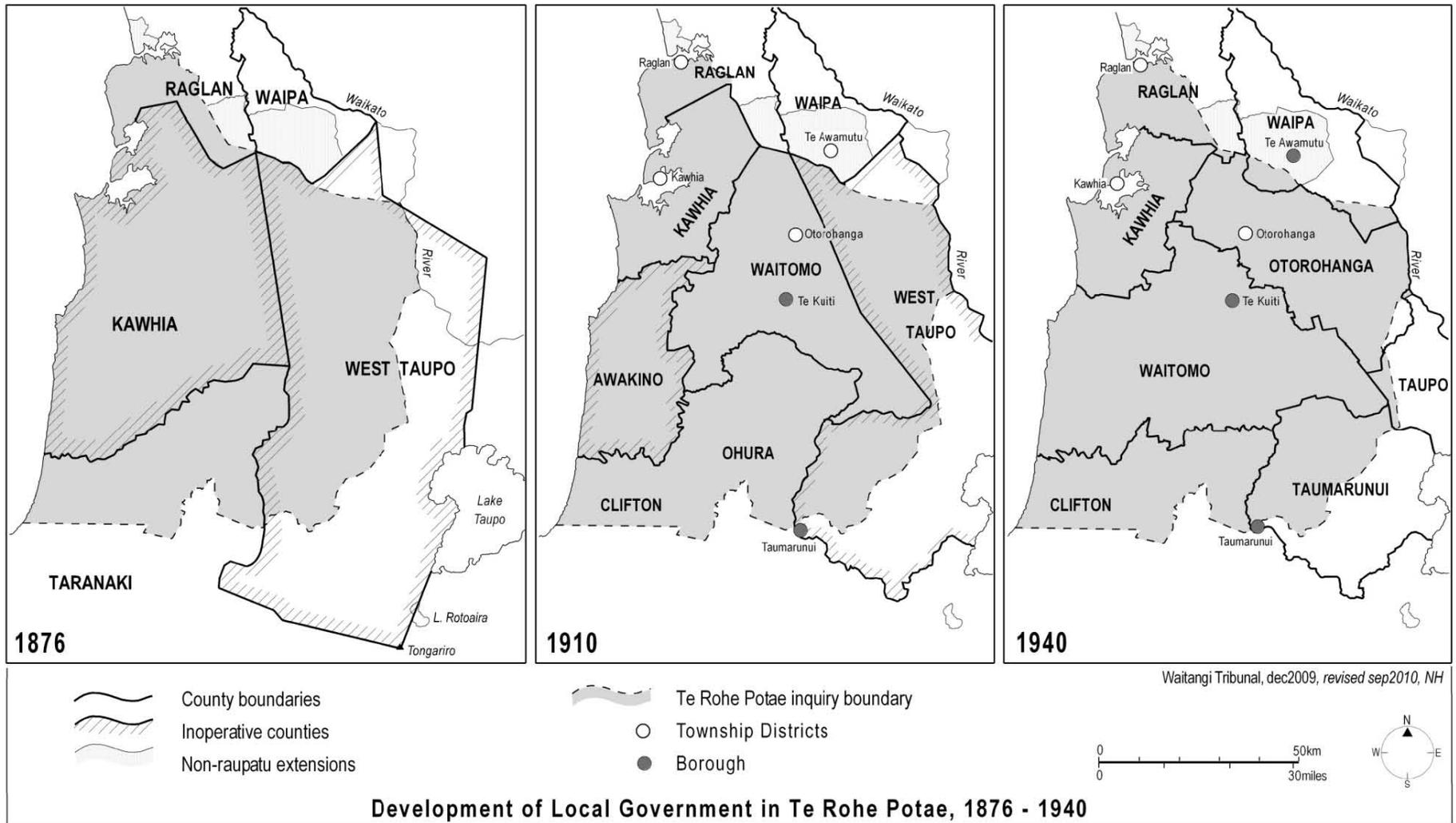
⁴ P McCaughan, 'Waitomo District boundaries' in 'A Collection of Historical Articles about the Waitomo District', (Hamilton, 2006), p 84

After almost 30 years as an inoperative county, the 1876 Kawhia County district was split in two under the Kawhia and Awakino Counties Act 1903. The border between the two was the Marokopa and Mangapohue Rivers. The Act brought Kawhia County under the Counties Act 1886 while Awakino County remained inoperative until 1913. In 1904 Kawhia County's boundaries were again altered by the Waitomo County Act 1904, which constituted the new county of Waitomo from the inland portions of the counties of Kawhia and Awakino.

A number of boundary changes occurred over the years, prompted by settler petitions. In July 1905 Clifton County Council agreed to the cession of their north-eastern boundary between the Mokau and Ongarue rivers as far south as Ohura and as far west as the Mangaotaki stream, to Waitomo County. A result of this change was the new riding of Ohura, with two representatives on the Waitomo County Council. Two years later half of this new area was lost to Waitomo County with the constitution of a new county under the Ohura County Act 1908. To avoid confusion with the new county, the Ohura Riding of Waitomo County was renamed Aria. In 1910 Waitomo County lost an area surrounding the Te Kuiti Native Township with the constitution of the Te Kuiti Borough.⁵

In 1920, again in response to pressure from county representatives, a review of local government boundaries in the Waikato and King Country was undertaken by a commission of inquiry. Its findings were subsequently legislated into effect by the Waikato and King Country Counties Act 1921-22. The Act abolished the Awakino County and the old Waitomo County. A new Waitomo County took in the former Awakino County area, but lost its rich northern agricultural lands to the newly constituted Otorohanga County. The new Otorohanga County also encompassed the northern portion of the former West Taupo County, an area from the southern peak of Pirongia across to the Waikato River and up to Pureora. The southern part of the old West Taupo County was formed into the new county of Taumarunui, while the balance of West Taupo and the majority of East Taupo were combined to form the new entity of Taupo County. Kawhia County lost an area in the north to Raglan County, its new northern boundary following the southern shore of Aotea Harbour to Te Maari Road, and overland to Pirongia. Smaller boundary adjustments took place between Waitomo and Taumarunui counties in 1930, between Waitomo and Ohura Counties in 1938, and between Waitomo and Clifton counties in 1939.

⁵ The boundary changes outlined here are from McCaughan, p 83



The second major change to county boundaries occurred in 1956 when Kawhia County was amalgamated into the neighbouring counties of Otorohanga and Waitomo following an inquiry by the Local Government Commission. The petition for the Local Government Commission review emanated from the all-but bankrupt Kawhia County Council itself at the prodding of the National Roads Board, and no objections were made to the provisional scheme proposal that the county be divided in two, with the northern portion going to Otorohanga County and the southern portion to Waitomo County. The boundary between the two was placed at Waiharakeke River on the Kawhia harbour, running upriver inland to the Otorohanga County boundary at Hauturu. Under the final scheme gazetted in January 1956, each amalgamated portion became a separate riding in its adopted county: Kawhia South became one of nine Waitomo County ridings and Kawhia North one of eight Otorohanga County ridings.

Under local government restructuring in 1989 the county system was abolished. Regional councils were given responsibility for resource management and the former functions of special purpose bodies. Territorial authorities, the district and city councils, were responsible for the more traditional range of functions such as roading, water supply, sewerage and rubbish disposal. At a regional level, the Inquiry District was carved into the three regions of Waikato, Taranaki and Manawatu-Wanganui, with most of the area in the Waikato Region. At a district level, the area is divided between the Waikato District (Raglan area); Waipa District; Otorohanga District; Waitomo District; Ruapehu District and New Plymouth District.⁶ In the case of Waipa, Otorohanga and Waitomo Districts, these entities had already formed district councils some 15 years before, with the amalgamation of their rural and urban territorial authorities, and the 1989 restructuring left them relatively unscathed.

Rather like Maui's fish left to the unchecked avariciousness of his brothers, over the years the kingdom of Te Rohe Potae has been carved and cut into multiple local government entities, each of them divided in turn into constituent ridings. In another Inquiry District, the intrigues of ratepayer self-interest behind every changing boundary may have been the focus of research. On the East Coast for example it has been shown that ridings were configured to minimise and carefully localise Maori ratepayer influence on council. Within Te Rohe Potae however, the widespread and enduring default from Maori land renders such considerations insignificant. King Country local government was almost exclusively white men's business, and the reasons for and impacts of changing county configurations have not been the subject of study.

⁶ Map of Local Government Boundaries at <http://www.lgnz.co.nz>.

What the report does explore is the different settlement patterns within the different local body districts, with their differing pressures on Maori, and on Maori land tenure.

IV Project Brief

This report forms part of the casebook research program of the Te Rohe Potae District Inquiry, charged to consider the impact of local government implemented in Te Rohe Potae on hapu and iwi in the district from 1840 through to the present. In fact, the time period under review has been truncated on both ends: early colonial development of local government on the national level has not been included. Readers are directed to my earlier East Coast work for such background. Focused as it is on the actual implementation of local government, this report begins with the first government-sponsored settler road boards and takes the story from there. With regard to modern-day developments, the scope of this report also reflects the dearth of local body records post-1970. Local government generally only does what it is statutorily obliged or empowered to do, and there has never been any statutory requirement for the proper archiving of local body records. The restructuring of local government in 1989 seems to have had an impact on the storage of old local government archives, a number of which are now held in private storage off-site. An interesting observation is that the degree to which these archives have been cared for seems to correspond with the varying fortunes of the different local body entities: Waipa District Council has a relatively full set of records, freely available to researchers, and both Waipa and Waikato District Councils (the latter holding the old Raglan County records) employ a dedicated archivist. The archives of Waitomo County on the other hand, are prohibitively expensive to view and the lack of any dedicated personnel or even finding aid makes research difficult. The exigencies of space and finance have meant that a lot of records have been simply dumped.

The lack of records has meant that the impact of local body zoning and planning has not been explored. It also has meant that the ongoing impacts in more modern times of the issues addressed in the report have not been established. I regret that information on a number of claims regarding specific local authority actions has not been located.

The research topics set out in the direction commissioning this research together with the associated project brief form a long list (see appendix 1). In essence, this report was directed to consider how local government worked – its functions, its funding, its franchise – both in theory, and on the ground; and the extent to which Maori were involved in the process, and impacted by it. The research questions were shaped by the imperative to take into account the approach of previous Tribunals regarding its jurisdiction to consider claims against local government. Previous Tribunals have concluded that local government bodies fall outside the definition of the Crown in terms of the Treaty of Waitangi Act 1975, meaning that

alleged Treaty breaches by local government have been considered to be outside the Waitangi Tribunal's jurisdiction. It has nonetheless been found that the Crown retained a responsibility to ensure that local government upheld obligations under the Treaty. This has been expressed as the Crown's ongoing responsibility to monitor those organisations to which it has delegated authority.

It was also acknowledged from the outset that there are substantial overlaps that exist between the local government project and other projects in the casebook research program. In particular, local government has strong links with the political engagement theme, as the implementation of the local government system in Te Rohe Potae contributed to the transfer of effective control: over land use, economic development and resource management. There are a number of claims regarding the Crown's failure to protect te tino rangatiratanga – tribal and chiefly authority over hapu rohe – and its replacement with 'foreign and imposed systems', although local government is not specifically cited.⁷ These have been left for the Political Engagement reports to consider. Further, in order to avoid substantial duplication of work, the suggestion was made that the local government report be confined to a consideration of the actual system of local government as it was implemented in the district, leaving the larger principles and issues regarding what kinds of local government should or could have been possible to the Political Engagement reports. In the event, this has proved difficult, for the reason that it is not possible to understand the actions of the local authorities of Te Rohe Potae without an appreciation of the larger forces at work. Removing the context for such actions renders them into a series of random, unconnected acts which fall prey to the danger of being dismissed on the grounds set out above, that local government actions fall outside the jurisdiction of the Waitangi Tribunal. Rather, it is hoped that the analysis of both the larger principles and the way they were implemented in practice in this report, will make a substantial contribution to the Political Engagement reports. For this report focuses less on the specific actions and personalities of the local authorities operating within Te Rohe Potae, than on the overall implementation of the system, its impact on Maori, and on the Crown's role in this paradigm in light of the Treaty of Waitangi.

The scoping report prepared in December 2009 also identified an overlap with the Environmental Management and Environmental Impacts report, and proposed that that was a better forum to discuss past and present-day resource management by local authorities, and the degree to which Maori have been involved in, and affected by management decisions.⁸ This includes the activities of past drainage boards, river boards, harbour boards, the Waikato Valley Authority, and the regional authorities established as a

⁷ See for example Wai 1099, 1132, 1136, 1137, and 587.

⁸ Claims regarding the vesting of control of tribal resources such as rivers, lakes, harbours and coastlines, fisheries, lands etc in local authorities include Wai 1410, 1448, 1352, 1203, and 753.

result of the 1989 restructuring and delegation under the Resource Management Act 1991. This report does not deal with such issues at all. In the same way, pest and noxious weeds control has only been dealt with to the extent to which it became a factor in the forced alienation of Maori land.

V Statements of Claim

Wai 1495/1616 by Pearl Comerford for the hapu of Te Rohe Potae is specifically addressed at local government in Te Rohe Potae:

- The failure of the Crown to incorporate the claimants in local government affairs before and after 1900 in particular in relation to actual representation and policy formulation affecting the claimants and public works.
- The Crown permitted local government to purposely omit consultation with the claimants.
- The establishment by the Crown of a national rating regime which failed and fails still to take account the different cultural values in respect of the claimants' land and tribal estate.
- The failure of the Crown to address the constitutional and valuation issues in its 'Independent Enquiry of Rating Report (Sept. 2007)', and subsequently.
- The Crown's failure to develop a coordinated and consistent approach to rate remission policies for the claimants' land.

In addition there are a number of claims relating to specific local government actions, such as the taking of land for public works and for unpaid rates:

Wai 472 Miria Tauariki, concerning the alienation background to Waikowhitiwhiti in Otorohanga, land occupied by community town hall and owned by Otorohanga District Council.

Wai 125 H Kereopa for Ngati Hounuku, Ngati Te Ika, Ngati Koata, Tainui and Ngati Tahinga re Karioi Allotment no.15 taken for pilot and signal station in 1883, but revoked reservation and vested land in Raglan County Council.

Wai 993 Eddie Neha and others for hapu of Ngati Maniapoto, re lands within the Orahiri, Otorohanga, Puketarata, Ouruwhero and Takotokoraha blocks taken (inter alia) under Acts of local government as Crown agents; land held and administered as reserves, forest and parks by the Crown and its agents; endowment lands for churches, education and communities; lands held by regional and local authorities.

Wai 1190 Rangiora Trustees, descendents of Kiore Pakoro re lands taken in 1936 for the Te Kuiti Aerodome, vested in trust in Waitomo District Council and complete area no longer required for the purpose.

Wai 1361 Te Pare Joseph for the whanau of Whitinui Joseph of Ngati Kinohaku re the actions of Te Kuiti Borough Council in taking land for Te Kuiti aerodrome, and the failure to offer land back to original owners when no longer required for the purpose.

Wai 1387 Trustees of Arapae 1 Blk A4A Kinohaku East re (inter alia) land taken by Waitomo [County] Council for quarry and road, and not returned; access to the Mangakowhai stream; drainage of the swamp resources there.

A number of these matters have been the subject of research in other reports, particularly David Alexander's Public Works Takings report. No information has been found on the alienation of Waikowhitiwhiti in Otorohanga, and nor were any relevant records discovered about the Waitomo County Council's quarry reserve on Arapae 1. Drainage activities generally will be the subject of research in the Environmental Management and Impacts report.

There are three specific claims regarding local body alienation of land for unpaid rates:

Wai 948 Rawiri Bidois and Piripi Kapa of Ngati Unu re Takotokoraha lands 3A2A, 3A2B1 and others vested in Maori Land Board and eventually sold to pay back rates to the Otorohanga County Council.

Wai 1054 Walter Te Huia Tata for family, re sale of Pirongia Allotment No.265 for unpaid rates.

Wai 2273 Heather Thomson on behalf of descendants of Paekau Te Ngohi and Manu Kapua, of Ngati Whakamarurangi, Ngati Tuirirangi, regarding the vesting of Manuaitu B9 in Maori Trustee.

Chapter 6 deals with the forced vesting of Maori land in Te Rohe Potae in the 1950s, the culmination of decades of local body lobbying for a rates return from Maori land. The report has identified 340 blocks of land subject to application for alienation by reason of neglect to farm, unpaid rates, or noxious weeds in this decade, together over 41,300 acres of land. These are set out in Appendix 2 of the report. Not all of these applications resulted in an order; and not all of the orders resulted in alienation. Nonetheless the collation of this material is chilling proof of the weight of local body pressure on a rates return from Maori land. Of the blocks listed above as subject to claim, only one has been accounted for in this research, confirming the conclusion that the impact of the legislation was even greater than that established by this report.

There is also a specific claim regarding local body restrictions over land utilisation:

Wai 614 Te Maika trustees re Parawai native township, that they cannot utilise land because of Waitomo District Council restrictions.

Modern-day planning restrictions have not been covered because of the lack of sources. The historical local body and Crown failure to provide Te Maika with road access is the subject of Chapter 11. In their feedback to the draft report, counsel for Wai 1147 claimants indicated that further specific examples of local government actions may be brought forward as the subject of claim in the course of hearings. This, no doubt, will also be the case for other claimants.

Chapter 1

Local Government: the National Framework

By the 1870s the New Zealand government could no longer sustain the business of colonisation on customs duties and dwindling land fund revenue alone. Faced with the inevitability of territorial taxation, in 1876 the provincial system was replaced by the division of the country into counties and boroughs, incorporated municipal authorities empowered to undertake public works and regulate local affairs within each district, and to levy and collect rates in order to do so. The emphasis in local government became local accountability to ratepayers, those individuals listed as occupiers on the private land titles on the district valuation roll.

Chapter 1 is a necessary prelude to the rest of the report. It describes the ‘nuts and bolts’ of the local government system as implemented in 1876, which remained relatively unchanged until the reform of 1989. Devised to meet the needs of Pakeha settlement, and based on Pakeha ideas of land tenure and use, unpicking the structure of local government and how it operated provides an insight into the colonising forces at work in New Zealand, and the structural discrimination and marginalisation the system presented for Maori.

1.1 Local Government Functions

Counties were initially envisaged as the fundamental unit of rural local government, to be ‘all powerful within their boundaries.’ County councils were accordingly empowered to undertake a range of public services, including the construction, maintenance, and control of roads, streets, and bridges; water supply works; drainage works; river control and sanitary works. Over time they were given responsibility for regulating heavy traffic licenses, dogs, auctioneers, abattoirs, motor drivers, buildings, hotels and hawkers. They were charged with the maintenance of cemeteries and pounds and the eradication of noxious weeds. They could act as harbour boards, establish fire brigades, supply electricity, construct telephone lines, accommodate workers, and provide market places, public libraries, recreation grounds and public halls. Moreover, county councils were empowered to make bylaws to regulate this wide range of responsibilities within their jurisdiction. Such bylaws were subordinate to Parliament, and subject to the control of the courts. Bylaws might be disallowed because they went beyond the powers laid down in

the enabling Act – that is, they were *ultra vires* – or because of unreasonableness. From 1953 counties were required to engage in town and country planning.¹

1.1.1 Rooding

Very few of the responsibilities listed above were mandatory. In fact, the only functions that county councils were compelled to undertake under the Counties Act 1876 were the care and management of public roads within the county, and the construction and maintenance of public works. This was no accident. The property qualification resulted in county councils composed of farmers, and plural voting favoured the large landowners. The development of roads and bridges facilitated farming operations and improved the value of their land, often to the neglect of other basic functions of local government for the benefit of the wider community.² The tendency of county councils to neglect community services other than roads also meant that for much of the period of county government, their powers to regulate these functions by way of bylaws was similarly neglected.³

Under the Public Works Act 1876 counties were given full powers to have land taken for the construction of county roads, and for other public works. David Alexander concludes that Maori involuntarily contributed in large measure to the existing network of roads in Te Rohe Potae, for which no monetary compensation, and certainly no public acknowledgement, was made.⁴ Section 245 of the Counties Act 1886, rendered all roads or tracks through Maori land that were ‘generally used without obstruction as roads’, whether they were surveyed or not, and regardless of whether they had been dedicated for this purpose, public roads under the control of council. Such ‘roads or tracks’ could be up to 66 feet (1 chain) wide. Provision was made for compensation but this did not extend to Maori landowners.⁵ Under Native land legislation, up to 5 per cent of a Native land title could be taken for public works purposes without compensation. Later, the declaration of Maori roadways as public roads on the recommendation of the Native Land Court was also used as a means of defining roadlines through Maori land without requiring

¹ The following discussion is drawn largely from my research for the East Coast, Luiten, ‘Local Government on the East Coast’, chapters 1-2

² AA McLachlan, ‘Future Trends in Local Government’, in JGA Polaschek (ed), *Local Government in New Zealand*, (NZ Institute of Public Administration/Oxford University Press, 1956) , p 102

³ E Dalmer and H Southern, *Counties at the Crossroads: A Survey of Rural Local Government in New Zealand*, Christchurch, The Caxton Press, 1948, p.38; JCD. Mackley, ‘Local Government in Counties’, in FB Stephens, (ed), *Local Government in New Zealand*, Wellington, Department of Internal Affairs, 1949, pp 58-59

⁴ D Alexander, ‘Public Works and Other Takings in Te Rohe Potae District’, Draft report, (Waitangi Tribunal Unit, 2009), p 126

⁵ The Native Land Act 1865 allowed the governor to take from Crown-granted land an area for roads, being 5 acres out of every 100 granted, within 10 years of such grant, with no compensation. The period was later extended to 15 years. By contrast, Pakeha acquiring Crown land only faced a five-year regime.

compensation to be paid to the owners. Maori continued to donate their land in the interests of obtaining access well into the 1960s.

Until the early 1920s all roads within the county were deemed to be the responsibility of the county council, maintained by revenue from rates. This of course, was not strictly the case within Te Rohe Potae where roads to Crown settlements had been constructed by the Public Works Department, responsibility for which local bodies were reluctant to assume. Government assistance for the construction of new county roads, or the reconstruction of bridges, was available through annual Public Works road grants, initially on a pound for pound basis. For the purposes of county administration, roads were divided into county roads and district roads. County roads were so designated if they were seen to serve the whole county community, and accordingly became a charge on the county ratepayers as a whole. District roads on the other hand started as roads under the jurisdiction of road boards, generally serving a specific defined community of interest within the county, and charged therefore to the ratepayers within the road district or riding benefiting from the access.

With time, the increase in motor traffic, the wear and tear on roads, and the ability to travel longer distances resulted in increasing calls for the costs of roads to be borne by the general taxpayer, rather than local ratepayers. In 1922 the country was divided into 18 highway districts and the Main Highways Board was created. Former important county roads could now be gazetted as 'Main Highways,' often remaining under the control of counties for construction and maintenance, but subsidised up to 75 per cent by the Main Highways Board. The board's revenue derived from petrol tax and the Consolidated Fund. A district highway council (not to be confused with the board) was formed within each of the 18 districts, on which every county within that area was represented together with the district engineer of the Public Works Department. These district councils met annually to consider highways estimates and forward proposed works to the board for approval. In 1936 the national main trunk road lines were designated State Highways, financed wholly by the Main Highways Board and constructed and maintained by the Public Works Department.

From the 1930s the Native Department could fund the construction and maintenance of roads that gave access to its land development schemes, a provision which of itself was an acknowledgement of local body neglect. This was continued in Part 34 of the Maori Affairs Act 1953, which provided for expenditure on roads giving access to Maori land being developed for farming purposes. Early on, roads were often constructed by Maori under Maori Affairs supervision (as part of land development schemes), or through unemployment grants, and then 'taken over' by the county council who became responsible for maintenance. From 1947 a dedicated Maori road allocation was managed by the Ministry of Works.

Maori Affairs was required to submit to the Ministry a three year roading programme, and the works were carried out either by Public Works or contracted to the local body. In any road project, the affected owners/occupiers were expected to make a financial contribution. No road construction could proceed without the written agreement of the local body to take responsibility for the future maintenance of the road.

Notwithstanding the considerable increase in general government expenditure, counties continued to be essentially roading authorities. The Select Committee on Local Government in 1945 estimated that 87 per cent of county revenue each year was devoted to the construction and maintenance of roads. As territorial authorities ostensibly charged with the ‘civic development’ of their area, the select committee was critical of the weak role that counties played within their respective areas: ‘...very few now accept any responsibility for river-control or drainage; practically none accept responsibility for such social amenities as libraries, rest-rooms, and parks or reserves; only a few are prepared to deal with noxious weeds. They have become to all intents and purposes concerned solely with the minor roads of their areas.’⁶ In time, counties took increasingly less responsibility for the formation of roads, preferring instead that of future maintenance once the roads were declared ‘public’. Work required on county roads was generally dealt with in order of priority decided by the council. Additional financial assistance became available for ‘back block access’: the construction of new access roads to settlers that would be otherwise difficult to justify on economic grounds. There has also always been an expectation that landowners would contribute a token amount to the cost of road construction, in addition to their rates.

1.1.2 Town and Country planning

From the 1960s town and country planning became an important function of county government under the Town and Country Planning Act 1954, administered by the Ministry of Works. County councils were required to prepare district planning schemes regulating land use through the application of zones – rural, industrial, residential and commercial – with a mix of permitted, conditional and prohibited usage for each. At the Ministry’s insistence, many district plans adopted a subdivisional standard to prevent the aggregation of settlement in rural zones: allowing only one dwelling per title, and insisting on a minimum section size of between 5 to 20 acres, with a minimum road frontage. The implications for multiply owned and occupied Maori land are immediately obvious. Preventing sporadic subdivision and urban development in rural areas was set down in town and country legislation as a matter of national interest, based on the principle of conserving productive land. It was also guided by the rationale of efficient service provision such as schools, electricity, telephone, postal and other deliveries, and local body

⁶ ‘Report of the Local Government Committee, 1945’, AJHR 1945, I-15, p 22

services of water supply, sewerage, footpaths and rubbish collection. Only farmers, or those in connection with rural industries, were generally permitted to erect more than one dwelling in most district schemes.⁷

The impact of rural zoning: the restrictions on building new dwellings, or more than one house on a title, and the regulations over subdivision sizes, have been shown to have had negative impacts on Maori in other Inquiry Districts. On the East coast for example it has been shown that under this regulatory framework existing Maori communities were not permitted to grow. Research there vindicates Maori claims that the planning regime implemented by local government contributed to the pressure forcing Maori to move away from traditional rohe to find housing. By 1989 the impact of subdivision and rural zoning policy was identified by the Waiapu County Council itself as a factor in the outward migration of its Maori community.⁸

The history of planning in Waiapu County also provides an enlightening example of the relationship between local body representation and the interests it serves. For although by 1983 the county council had moved some way from its narrow adherence to government-driven planning practices to meet the needs of its predominantly Maori community, it was only after the 1986 election returned a Maori majority (the first local body election to be held on the same democratic principles as the general election), that Maori interests were actively advanced in the resulting scheme review, through the provision for example for up to five dwellings on any one title in the rural zone as a predominant use.

Regretably, the impact of local government implementation of town and country planning has not been addressed in this report. Quantifying the impact of planning policies on Maori individuals, families, and communities has not been possible because of the lack of available sources. Although a number of past district schemes were located, the local authorities' correspondence and subject files relating to planning were not. The district schemes that were found indicate that the same restrictions regarding the rural zoning of land were at work. Early 'rural-residential' subdivision standards in Raglan County for example insisted on a two-acre minimum, a requirement identified by Maori Affairs staff in 1959 – and the council itself – as a barrier to procuring building sites for desperately needed Maori housing in Raglan County: 'In our opinion this is wasteful and in each housing application we will have to apply for exemption.'⁹ In 1973 the county's minimum rural subdivision of 10 acres with a road frontage of not less

⁷ Luiten, 'Local Government on the East Coast', pp 298-300

⁸ Ibid, chapter 7

⁹ Auckland assistant district officer to Head Office, 17 July 1959, MA W2459 262 30/1/47, Archives NZ Wgtn; DB:783

than five chains seems to have been increased to 40 hectares by 1977.¹⁰ Exceptions to the policy were considered by the county on a case by case basis, the council professing to take into account Maori realities regarding multiple ownership: ‘...Council has in the past exercised a power of discretion in relation to Maori land to enable owners to obtain title to their share in a block.’¹¹ Otorohanga County Council’s rural subdivision minimum in 1970 was 10 acres, with only one dwelling per title permitted.¹² By 1979 permission was extended for additional houses to provide accommodation for farming activities, and the minimum subdivision standard done away with, each application to be assessed on the agricultural potential of the land.¹³

Readers interested in the impact of planning and zoning on Maori, and the links between representation and changing planning policies, are directed to my research for the East Coast Inquiry. Town and country planning issues have also been addressed by the Tribunal in its recent *Tauranga Moana 1886-2006 Report*.

1.2 Local government funding

1.2.1 Rates

The primary source of funding for local government was rates, a tax assessed on the value of land. Originally calculated on the annual rental value of land, after 1882 provision was made for rating on the capital value – essentially the market value of the property, and from 1896 county councils could rate on the unimproved value of land – the land minus the value of capital improvements – if a poll of ratepayers agreed to the proposal. Although the same amount of rates needed to be raised regardless of the system, generally speaking rating based on capital value tends to shift the burden onto town-dwellers, while rating on the unimproved value places the burden onto farmers, .¹⁴ In the context of Te Rohe Potae, county rating on the unimproved value placed the burden on the large proportion of undeveloped Maori land.

Local government legislation provided for the levying of a number of different rates. **General rates** were levied for general purposes over the whole county, with a ceiling amount limited by statute. The expectation was that general rates would pay for routine road maintenance. In order to pay for works affecting ratepayers in any defined district, **separate rates** could be made by special order and levied on

¹⁰ Raglan County Council clerk to Hassall, Gordon & O’Connor, 14 March 1977, 34/91 L/2/2 Land Subdivision in Counties, Box 120, Waikato District Council; not in DB

¹¹ *ibid*

¹² Otorohanga County Council, District Scheme 1970, 233214, Otorohanga DC; not in DB

¹³ Otorohanga County Council, ‘First Review of Operative District Planning Scheme’, April 1979, in above; not in DB

¹⁴ *Ibid*, p 159

the ratepayers who stood to benefit from the proposed work. Water supply and rubbish collection were often paid for by way of a special rate. Such a rate could only be levied following a poll of affected ratepayers agreeing to the proposal. In addition to the general and separate rates, *special rates* could be levied in order to finance a loan raised to carry out a work. This might be levied over the whole or part of the county, depending on who was deemed to benefit. The special rate became the security for the loan, which again could not proceed without the sanction of the affected ratepayers. An important principle underlying all of these arrangements is that rates were seen as an exchange for a benefit, or service.

1.2.2 Loans

From the outset, local government was empowered to raise loans through debentures to pay for local works, although the extent of borrowing was limited by statute. Three main principles set down in the original Act were continued in subsequent legislation. Briefly, loans could be raised only for the construction of public works and utilities, and not for general routine maintenance operations; full publicity had to be given to all loan proposals; and the consent of ratepayers was necessary before loans were raised. Concerns that the general government would become liable for the bad debts of local bodies were met by an early provision that no claim of any holder of debentures secured on the county funds, or any creditor of any council, would attach or be paid out of the public revenues of New Zealand.¹⁵ Importantly, the special rate levied for the loan became the security, and provision was made for the appointment of a receiver in the event of default.

Loans became an increasingly popular way to pay for the formation of new roads in specific areas. Under the aegis of the incorporated county council, interested ratepayers could access the necessary capital for road formation, and while the cost of the works fell on the ratepayers who stood to benefit from the access through the payment of special rates, once the road was made, the maintenance for the same was met out of the general rates of the county. Generally speaking, the size of the loan was indicative of how many individuals benefited, with early county loans provided by the State at low interest rates. After the First World War the extent of local body borrowing increased dramatically. Alarmed at the perceived risk to the Dominion's credit, in 1926 the Local Government Loans Board was established to curb local government borrowing. All loan applications were now scrutinised by the board, and rejected if stipulations regarding the necessity of the proposed works or method of repayment were not met. In the

¹⁵ Section 157, Counties Act 1876

13 years from 1930-31 to 1943-44 it is estimated that applications for some £8.5 million worth of loans were declined by the board or referred back for further consideration.¹⁶

Loan proposals had to be sanctioned by the affected ratepayers in the first instance, by way of a poll. Yet the security of the loan was the special rates on the affected properties, not the ratepayers. This had implications for Maori leased land, where the occupiers might sanction a loan and then leave, leaving too the debt with the Maori landowners. Research undertaken for the East Coast has also shown that the level of debt incurred by county councils early on for the construction of roads to Pakeha farms was a factor behind the subsequent inability of local government to provide Maori farmers with the same service.

1.2.3 Land Revenue

An important source of income to local government in Te Rohe Potae was the practice of allocating a portion of rent from Crown leaseholds to local government by way of compensation for county expenditure on the construction and maintenance of roads and bridges to access such Crown lands. ‘Fourths’ were the 25 per cent of rent derived from lands disposed of as small grazing runs. ‘Thirds’ were the 33 per cent of rent derived from land disposed of for occupation with a right of purchase or on renewable lease. The moneys so received by the local body were only to be spent on providing access to the Crown lands. In essence, the arrangement was a legacy from colonial and provincial practices to fund settlement from the profit margin resulting from the Crown’s Treaty monopoly right to purchase Maori land, operated to ensure where title derived from the Crown, access was also provided. Crown tenants, initially at least, were not liable for general rates.

To a large extent, the settlement of Te Rohe Potae followed the precedent set 50 years before. Throughout this formative period general territorial taxation was not used. Public works were instead primarily financed by the ‘Land Fund’; the difference between the nominal prices paid to Maori by the Crown, and the on-sale of the same – once the land had been surveyed and partitioned into parcels – to Pakeha settlers. The expectation was that a title purchased from the Crown would come with formed road access. This land fund, or territorial revenue as it was also called, was considered to be a public estate, for the benefit of the community as a whole. Under the Land Fund Appropriation Ordinance 1851, one-third of the gross proceeds from the sale or lease of Crown land was to be returned to the hundreds or the municipalities from which it derived, to be expended on public works in the area. This subsidy became an important principle of municipal financing, the ‘localisation’ of the land fund in this manner increasingly leading to the demand that the expenditure on public works in any district should be proportionate to the

¹⁶ ‘Report of the Local Government Committee, 1945’, AJHR 1945, I-15, p 138

amount of land purchased, or put another way, the expectation from Pakeha landowners that they had ‘paid’ for public works in the price of the land. Large landowners, having paid more, expected more.

The same principles were employed by the Government within Te Rohe Potae: the Crown’s monopoly right of purchase ensured that nominal prices were paid to Maori for their lands. These lands were then cut up into ‘Crown settlements’ throughout the district, the Crown titles balloted to Pakeha, and the profits from these transactions put towards providing the access guaranteed to the Crown tenants, built and maintained by the Public Works Department. As set out in Chapter 2, the inadequacy of the government provision of roads was a significant factor behind the establishment of local government, and the tug of war that ensued between the local authorities and the State over the responsibility for providing the requisite infrastructure has been the predominant theme in the subsequent history of the district. In addition to the general rationale for government financial assistance to local bodies – by way of Public Works grants set out below – the basis of settlement in the King Country meant that local authorities received extra consideration.

1.2.4 Subsidies

The promise of large government subsidies held out by Vogel to induce Parliament to accept the local government reform of 1876 and enacted in the Financial Arrangements Act 1876 was not sustained for long.¹⁷ The following year the Land Fund was in fact incorporated into the Consolidated Fund, and the principle of applying profits from land sales to the districts from which they derived was brought to an end. As compensation to counties, the subsidy for rates was increased from £1 to £2 for every £1 collected in rates. Toughening economic times brought on in part from the huge public works debt of the 1870s saw this reduced by half from 1881. Circumstances dictated that the rates subsidy system that ensued fell short of government promises. From 1888 counties collecting less than £1000 in general rates were subsidised 10s in every pound; for better-off counties the subsidy was 5s in the pound, with a minimum of £500 and a maximum of £2500, regardless of size. This annual maximum rates subsidy, together with a similar annual maximum ceiling on loans, was a major factor behind the proliferation of counties, providing smaller communities of interest the incentive to strike out to obtain this money. These annually recurring subsidies endured until 1953.

More importantly, from 1877 to 1953 provision was made in the Public Works Fund for capital grants to local authorities for the development of district roading, particularly for the construction of back country roads, on the principle that closer settlement and increased primary production was largely a government

¹⁷ Stout criticised the county system introduced in 1876 as driven entirely by financial considerations – ‘money bribes’ – rather than any philosophical ideals of local government, NZPD 1876, vol 21, p 477, cited in Luiten, p 43

responsibility. These annual grants were generally made on a pound for pound basis, the subsidy having to be met in kind by the affected ratepayers. Early on, the success of local government to attract funding for specific works tended to rest on the influence of its local MPs, but from 1910 a more systematic approach was designed, with counties required to submit their proposals through the Government's district engineer.¹⁸ Smaller grants were also made from the Consolidated Fund for the maintenance of special roads and both funds increasingly contributed to grants for flood damage.

The Public Works Fund remained an important source of revenue for the development of county roads. With the establishment of the Main Highways Board, half of the construction costs and one-third of the maintenance costs of main highways were met by the board. After 1938 the construction subsidy was increased to 3:1, which was continued when the National Roads Board took over from the Main Highways Board. Under the National Roads Act 1953 subsidies to counties to the amount of 8 shillings for every pound collected in general or special roading rates was to be applied specifically to the cost of road works. The basis of road subsidies was changed again in 1960, to reflect local body expenditure rather than rates collection. The National Roads Amendment Act 1959 also saw the end of the 'main highway' classification. Important arterial road lines became State Highways, fully the responsibility of the National Road Fund. Lesser arterial routes reverted to the status of county roads. From 1923 the subsidies paid to local authorities for road works was derived from revenue accruing from road-users.

1.2.5 Fees and fines

Local government has also received considerable revenue in the way of licence fees and fines, accounting for as much as 42 per cent of county revenue in the 1890s.¹⁹ In addition to fines and penalties arising from breaches of local bylaws, counties have been the recipients of dog registration fees, auctioneers' licence fees (from 1891) and publicans' licence fees (from 1908), motor vehicle registration fees (from 1924) and heavy traffic fees (from 1924-1953).

1.3 County expenditure

Legislation dictated how local government was to apportion its revenue. The hierarchy of priorities was headed by debt repayment, followed by contribution payments to dependant bodies such as hospital and charitable aid boards. Any residual income after the apportionment of revenue to the construction and maintenance of county roads was to be apportioned among the ridings in proportion to the rates received from them, to be expended on works within each riding. This localising principle did not extend to the

¹⁸ See for eg Under-Secretary Public Works Department to Chairman, Raglan County Council, 24 January 1910, BBAD 1054 2412A 15/12 part 1, NZ Archives Auckland; DB:1500

¹⁹ G Bush, *Local Government & Politics in New Zealand*, 2nd ed., Auckland, Auckland University Print, 1995, p 20

rates compromises negotiated under Ngata's stewardship: Section 536(4) of Native Land Act 1931 stated that there was no obligation on the part of local authorities to apportion revenue from rates compromises among the ridings from which it derived. Unlike their Pakeha constituents, Maori ratepayers affected by the compromises were not guaranteed that their rates would be expended on services within their riding.

As already stated, it is an obvious point that the provision of service was tied to rates payment. The whole system was devised to provide rate-paying property owners with the required infrastructure to facilitate their farming activities. The weighted franchise arrangements ensured that wealthy ratepayers were served first and best. A less obvious manifestation of this bedrock of self-interest was the fact that counties were generally financially administered on a riding basis, keeping separate riding accounts to carefully monitor the income and expenditure of these economic communities of interest. Rather than promoting the wellbeing of the district as a whole, this arrangement tended to exacerbate existing inequities. Ridings with numerous contributing ratepayers could raise funds to attract further government grants, and, as a result of the increased production, could afford to reduce the general rates. 'Poor' ridings on the other hand, with fewer rate-paying properties, sometimes found it difficult to meet even county obligations – of administration, hospital levies, and main roads – let alone to find the funds to match government grants for much-needed local works. The strange result was that ratepayers with poor access were often rated higher than those in ridings with good roads. It is somewhat ironic that Waitomo County Council, while arguing that the general public should bear the responsibility of the non-payment of rates from Maori land, did not extend this principle to its own operations: separate riding accounts, and differential rating, meant that the cost of non-payment was not shared equally among the county ratepayers. It was not until the 1950s that riding accounts were abolished in both Waitomo and Otorohanga counties.

The extent of government – or taxpayer – subsidisation of local government should also be borne in mind in considering the equity in the provision of service. Local government after all, was a Crown creation, and the financial support with public money of local development by a white landed property class to advance their own interests reflects a Crown presumption that these farmer interests were aligned with public interest. This report explores the flaws in such a presumption, considering the extent to which the needs of Maori communities and individuals were served by the local body creations of Parliament within Te Rohe Potae.

1.4 Representation in Local Government

From the earliest times there has also been a relationship between local government franchise and how local government is financed. The relatively liberal-minded franchise so celebrated in this 'better England' was arguably only possible because Pakeha immigrants were not being asked to directly foot the

bill. Rather, public works were paid for compliments of the Crown's monopoly on land purchase. This practice continued after private purchase was allowed after 1865, with the introduction at that time of a 10 percent stamp duty on all first-time purchases of Maori land, effectively taken, as Maori complained, from the price, rather than added to it.

When local government came to be funded by direct property taxes on the other hand, the generosity with regards to franchise dried up altogether. This is evident in the early provincial road board structures, and the same principles were carried over into the local government reform of 1876. Electoral franchise was limited to ratepayers, with the number of votes accruing to each rising with the value of the property (and therefore the rates paid). The end result was that local government from the outset was run by the Pakeha newcomers to the district. Within counties, the political privileges bestowed on wealthy property owners meant that established Pakeha farmers continued to run the show.

The features of the local government system with regard to franchise are set out below, together with the impacts of the system on Maori participation and representation. Based as it was on a ratepayer qualification, the widespread rates default from Maori land meant that within Te Rohe Potae local government remained largely white men's business. This makes an in-depth analysis of electoral arrangements somewhat redundant. Nonetheless the report touches on aspects of relevance to Maori participation in Chapter 8.

1.4.1 The Ratepayer franchise

Local body representation was based on the riding unit, the local body electoral rolls drawn from the 'occupiers' column of rateable property in the district's valuation roll prepared for each riding or ward. Based as it was on a ratepayer qualification, for six years following the 1876 reform Maori stood outside the door of local government altogether by the simple fact that under the Rating Act 1876, Maori customary land and Maori freehold land occupied by Maori was exempt from rating. Over the next three decades customary land was transformed into Maori freehold land, which was gradually hauled into the rating regime: the 'five-mile' rule was first introduced in 1882, making Maori land within five miles of a public road liable for rates, and unrelenting pressure culminated in the Rating Act 1910, where all Maori freehold land was liable for rates on the same basis as European land. Maori customary land was still exempt. Regardless of any political, administrative or financial barriers facing Maori with regard to the payment of rates, the fundamental point must be understood that at the time the system was implemented, there were very real structural barriers in place affecting Maori participation.

The issues surrounding the payment of rates from Maori land are explored fully in (1.5) to (1.7). Having succeeded in making Maori freehold land liable for rates, the problem facing local government

nationwide became collecting them. The immediate effect of rates default was a disqualification from voting. For county government, in which a residential qualification was not introduced until 1944, the net result of non-payment was non-participation. Moreover, the defaulters' list compiled by county government cut across riding boundaries, so that even when rates had been paid on some properties, the failure to pay rates on all properties debarred the listed ratepayer from voting. The widespread Maori rates default within Te Rohe Potae meant a corresponding blanket absence from the local body politic.

Parliamentary measures from the outset were aimed at rates recovery from Maori lands and less attention was paid to ensuring their participation as ratepayers. In the golden age of Crown reimbursement from 1882-1888 for example, rates demands were not required to be addressed to the Maori owners but to the Colonial Treasurer, who was to have it published in the *Kahiti*. Treasury's payment of the rates after three months was later recovered by a stamp duty when the land was leased or sold for the first time, but Treasury's payment of the rates did not entitle the Maori owners to a vote. Under the 'nominated owner' system developed in the 1890s and formalised in 1904, the names of such nominated owners were required to be placed on the district's valuation roll, but once again this was more for the purpose of rates recovery than concern over representation. The revision in 1924 harked back to the 1880s principle of charging unpaid rates against the land itself, rather than the owners. Prime Minister and Native Minister Coates placated county councils that the new laws did away with the uncertainties of the nominated owner system. It also did away with the need for local bodies to identify the individual owners of the land, which again raises the issue of representation. The rates charges remained on the land titles until they were paid, but this liability did not grant a corresponding right of franchise to the owners. Similarly, under the land-for-rates compromises negotiated by Ngata from the late 1920s, the payments advanced by the Crown to local bodies for rates on Maori land were not translated into franchise for the affected Maori landowners.

On an administrative level, the lack of any rigorous system to maintain correct details for Maori assessments on the Valuation Rolls – on which the electoral rolls were based – added to the disenfranchisement of many Maori landowners. The responsibility for doing so remained a nebulous and shifting one between the Valuation Department, the Native Land Court, and the local body itself. Of the three, the court had the most contact with the Maori landowners but it was never adequately resourced to undertake the task effectively. The net result that for at least the first 40 years after Maori freehold land was made liable for rates in 1904, the valuation rolls were often plain wrong. In 1920, in responding to pressure from the Te Kuiti Borough Council regarding the placement of liens on Native Land Court titles for unpaid rates, the Court responded: 'If the local bodies displayed a greater keenness in following up the

actual person in occupation instead of blindly contenting themselves with the names supplied by the Valuation Department it is felt that the amount of outstanding rates would greatly decrease.’²⁰ The inequity of the arrangement was compounded by the Rating Act 1925, under which a nominated owner *might* still be appointed by the Court for the purposes of voting, but the names of nominated owners or occupiers were no longer required to be entered in the valuation roll at all. Claims for unpaid rates were to be lodged with the registrar of the Native Land Court and dealt with as an application for a charge *against the land*. Where such applications resulted in a charging order, the charge remained on the title until it was discharged through payment: there was no corresponding provision to translate charging orders into ratepaying franchise.

The focus on extracting rates from Maori land, with less regard for ensuring corresponding political franchise makes a mockery of the core constitutional tradition in the Westminster system of ‘no taxation without representation’. On the East Coast from the late 1930s, a number of counties took the initiative, organising meetings with Maori communities to correct the rolls. Good relationships with its Maori constituency however, were not a feature of local government within Te Rohe Potae. Fed up with the role of rates collector, the Maori Trustee unwittingly echoed the point 30 years later, remarking in 1952: ‘It will be noticed that if any reasonable enquiry had been made by the County Council as to who occupied the lands they could have collected many of the rates and saved the time of the Court and our officers.’²¹ Once again his comments were directed at the extraction of rates, but the implications are as true for participation.

1.4.2 Weighted/plural voting

The ratepayer franchise was weighted, with a scale of from 1-5 votes, depending on the value of the property. With regards to county government, an amendment at the turn of the century set the scale which prevailed until 1974: those with rateable property in any riding less than £1000 had 1 vote; those with property worth between £1000 - £2000 two votes; and those with land valued at more than £2000 were entitled to three votes. Plural voting – the right to vote in any riding in which property was held – was also maintained until 1986. Depending on the number of ridings within a county – and after 1908 the maximum was 12 – a wealthy landowner could potentially exercise 36 votes in the county election. It was not until 1944 that county residents other than ratepayers were entitled to a single vote. In an interesting

²⁰ Auckland registrar to Under-Secretary Native Department, 28 April 1920, MA 1 401 20/1/1 part 1, cited in Richard Towers, ‘Its rates and taxes are biting ... its teeth cannot be withdrawn: Rating on the East Coast’, (CFRT, 2007); p 117

²¹ JH Flowers to Wellington district officer, 18 December 1952, MA 1 764 54/21; DB:805

contrast, within the boroughs and town districts of New Zealand these arrangements that favoured the large propertied class were done away with by the turn of the twentieth century.

The impact of this weighted provision within Te Rohe Potae was mixed. Certainly it would have contributed to the hold that wealthy farmers exercised in early counties such as Clifton, Raglan and Waipa. In the leaner Crown settlements within Te Rohe Potae proper, the impact may have been less pronounced. Few ratepayers on the electoral rolls of Kawhia County for example enjoyed more than a single vote.

1.4.3 Individual property rights

The local government reform of 1876, based as it was on a ratepaying franchise that Maori landowners could not join, was also not surprisingly devoid of any role for collective Maori representation. Nor was any mechanism subsequently developed by the Crown to translate beneficial ownership and occupancy of multiply held land into electoral franchise. Rather, the local government system has remained firmly based on the property rights of the individual. The fact that women were enfranchised in local government 17 years before the much-vaunted parliamentary women's suffrage of 1893 is not widely known. This had arguably less to do with women's rights, than once again protecting the oligarchy of the large landowners: on the East Coast the practice of placing family members as the occupier on multiple properties in the riding was an effective way of controlling the electoral outcome. The effect of the same system on tribally-minded Maori communities worked exactly in reverse: early land blocks were often large, and vested in representative rangatira, and often the same chiefs, depending on their mana, were given the mandate over a number of communally owned blocks. Whereas Pakeha were apt to split the family estate to ensure votes to each member, Maori whanau tended to concentrate their land under the mantle of a single rangatira. In this way, vast communal lands and a large number of beneficial owners did not translate into political power in local government. Again however, the widespread rates default makes this a somewhat secondary issue within Te Rohe Potae.

Furthermore, although the large blocks were subsequently partitioned, any potential for a commensurate degree of political influence in local government was hampered by the 'nominated owner' system developed in the 1890s. It was entrenched by Section 42 of the Counties Act 1908: in any case where there was more than one person appearing on the valuation roll as the occupier of any one property, for the purpose of voting in local body elections, only the person whose name appeared first on such roll was to be entitled. The other beneficial owners, whether 2 or 200, were disenfranchised.

1.4.4 Riding configuration

The ridings that made up a county were supposed to reflect communities of interest. Representation on the county council was based on the riding unit, with the number of members drawn from each riding depending on the contribution of the riding to the county revenue. The fact that each county was in fact financially administered as separate ridings – income and expenditure carefully meted out within these economic communities of interest – ensured that riding boundaries were carefully contrived and closely guarded. From the outset, councillors could by special order alter the number, name and boundaries of ridings within the county. There were no statutory guidelines for doing so, such as area, rateable value, or number of ratepayers. Rather, councillors could make these changes ‘as [and when] they saw fit’. Research undertaken for the East Coast Inquiry District demonstrates that riding configuration became the single-most effective means of keeping demographically outnumbered Pakeha farmers in council, particularly once the county vote was extended to all residents in 1944. The extent to which this has occurred in Te Rohe Potae has not been able to be determined. If it operated at all, it would have been a feature post-1970, when rates payments from Maori were significant enough to affect the outcome.

1.4.5 Land alienation and loss of control

It is perhaps pointing out the obvious that the extent of land alienation, whether by lease or by sale, affected the ability of Maori to participate in local government. Under lease agreements, which were widespread within Te Rohe Potae, it was the lessee as occupier who was enfranchised in local government. In addition to private lease agreements, a significant factor within Te Rohe Potae affecting Maori participation was the forced vesting of their land in the Waikato-Maniapoto District Maori Land Board from 1903 onwards. Such vested lands, if sold or leased by the board, bestowed local government franchise on the occupiers, and for the significant amount of vested land ‘not dealt with’ – some 43 per cent by 1927 – the president of the Maori Land Board would have been listed as occupier.²²

1.4.6 Special purpose local authorities

The proliferation of special-interest ‘ad hoc’ local authorities – the harbour boards, drainage boards, river boards, catchment boards, power boards and hospital boards – has been largely attributed to the reluctance of county councils (and their constituent ratepayers) to provide for the wider concerns of their communities. Their ability to do so was further undermined by the fragmentation of county districts which continued unabated till the 1920s. In almost all cases, the district over which special purpose bodies functioned extended beyond the boundaries of a single territorial authority, and development after the Second World War escalated this trend. By 1950 there were 537 such special purpose boards. The county electoral roll, with its ratepayer qualification and weighted provisions, was the basis of other local

²² Pinda consultants, ‘Te Rohe Potae Land Issues Post 1908-2008’, p 42

body voting, with the same implications for Maori participation. The activities of these ad hoc local authorities have not been the subject of research for this report, on the understanding that they will be covered in the Environmental Management and Environmental Impacts Report.

1.5 Rating liability

The development of rating legislation affecting Maori land has been researched for a number of Tribunal inquiries and set out in some detail.²³ The following analysis draws on this work to consider the unfurling reach of rating law over Maori land within the twin themes of liability and recovery.

Maori land was initially exempt from all local body rates and it took an aggressive settler Parliament over thirty years to fully overcome Maori resistance to having their lands become rateable property. It was a struggle won in stages, beginning in 1882 with the ‘five mile rule’ and deferred reimbursement of State-paid rates; and gradually extending the ambit of rateable property with the concessions of half-rates and exemption from special rates. By 1910 however the encirclement was complete, with all Maori freehold land liable for full and special rates. Having done so, it took the government another 15 years to devise a practical method of exacting payment without the complete abrogation of ownership rights. Despite the professed insistence to end the ‘special treatment’ accorded to Maori when it came to rates, from the earliest times overcoming the complexities posed by multiple ownership and occupancy, in concert with the virtual estrangement of local bodies with their Maori communities, meant that usual procedures of demands and notice were eventually dropped, with the recovery of rates sought from a charge against the land.

The constitutional reform of local government in 1876 saw the introduction for the first time of general territorial taxation based on occupancy. Rating on real property had occurred within small defined road districts prior to the 1876 reform, and a number of these road boards were operative on the fringes of Te Rohe Potae. From the earliest Municipal Ordinance of 1844 however, both Crown land and Maori land were exempt from rating by such boards, a feature that endured in provincial legislation for the next three decades. Local government was essentially a Pakeha affair, occurring only as and where Pakeha communities took root. Towards the end of this provincial period, Maori land was liable for rates only if it was occupied by someone other than its Maori owners, in other words, a Pakeha lessee.²⁴ Interestingly, this status quo was omitted in Auckland’s provincial highways re-enactment of 1874 – while Colonial and

²³ Towers, ‘Rating on the East Coast’, (CFRT, 2007); Marinus La Rooij, ‘That Most Difficult and Thorny Question: the Rating of Maori Land in Tauranga County’, (Waitangi Tribunal, 2002, WAI 215 #P14)); Tom Bennion, ‘Maori and Rating Law’, Rangahaua Whanui National Theme I (Waitangi Tribunal, 1997)

²⁴ See for example Highway Boards Empowering Act 1871

Provincial waste lands were exempted, no mention was made of Maori land – but it was reinstated two years later when central government resumed control of provincial affairs. Both Maori customary land and Maori freehold land occupied by its Maori owners was exempt under the Rating Act 1876. Six of the 63 counties created from legislation of the same time, including those of Kawhia and West Taupo, were also given a sweeping exemption.

The Rating Act 1882 clarified that the occupier was primarily responsible for rates, although provision was made for the recovery from owners and mortgagees (ss.28-29). Exceptions to rateable property were extended to specific community-benefit land uses such as cemeteries, public schools, hospitals and lighthouses. The status quo with regard to the non-liability of Maori land remained, however a second piece of rating legislation that session – apparently introduced with little warning – both dramatically extended the extent of the rating liability of Maori land, and guaranteed to local bodies the collection from such lands through reimbursement from the Consolidated Fund. The Crown and Native Lands Rating Act 1882 provided for the proclamation of Native rating districts (s.4), and declared that all Crown land, and all Maori land situated within such districts, lying within five miles of a public road, to be rateable property (s.6). The owners of Maori land affected by this new liability were to be informed via notice in the *Kahiti* (s.15). If the rates remained unpaid for three months by the owners, the amount was to be paid by the Colonial Treasurer, from funds appropriated by the General Assembly, to be recouped by way of a stamp duty when the affected land was sold or leased (ss.10-12). The counties of West Taupo and Kawhia were again exempted from the Act (s.6(13)). Maori land situated in borough districts was now deemed to be rateable property on the same basis as European land (s.3).

By 1886 over £40,000 had been paid out by Treasury to local bodies under the Act: some £29,894 on account of Crown lands and £10,199 on account of Maori lands.²⁵ Some local bodies gained a welcome windfall under the scheme: Westland County Council alone received a whopping £6990 on account of the Crown lands within its district. But the golden era of government reimbursement was not sustainable. In addition to the strong and persistent objections of Maori to rating (articulated for example to Ballance on his 1885 tour of some districts), it had become apparent – as predicted – that the mounting rates debt against affected properties would eventually outstrip the value of the land, leaving the government out of pocket. The Crown and Native Lands Rating Act was repealed in 1888, although not the provisions regarding the recoupment of money by the Colonial Treasurer for paid rates on Maori land.²⁶ Maori protest against the rating of Maori land, including seven petitions with collectively 1500 signatures, was

²⁵ ‘Payments to Local Bodies under Crown and Native Lands Rating Act’, AJHR 1886, B-15 pp 2-7

²⁶ By 1924 the stamp duty had returned £38,235 from Maori land owners to Treasury, AJHR 1924 G-8, cited in Towers, p 44

successful in having similar provisions removed from the proposed Native Land Bill of that year.²⁷ Under the Repeal Act, the liability of both Crown and Maori land reverted to position set out in the Rating Act 1882 – largely exempt – with the exception of Maori land within a borough which continued to be liable on the same basis as European land.²⁸

The issue of rating Maori land was debated in the House every year from 1893 to 1896. The Rating Acts Amendment Act 1893 began with the ambition ‘to declare all Native land to be rateable property’. Indeed, the legislation defined ‘native land’ to mean customary land or otherwise, and decreed that all such land was rateable property (s.16). The ‘occupier’ definition too, included both Maori and Pakeha in actual occupation not less than six months, or, in the case of unoccupied land, the owner. But the bite of the Act was less than its bark. In fact, the 1893 legislation reasserted the 1882 position with regards to liability, in that the ‘five-mile’ rule was reinstated. All Maori land more than five miles from a public road was exempt, as was customary land for which there was no Pakeha occupier (s.18(1), (4)). Maori freehold and customary land with a Pakeha occupier was to be liable to full and special rates, Maori freehold land occupied by Maori within the five-mile reach was to be subject to half rates, and no special rates (s.17). Under further amending legislation in 1895, rating liability was extended to Maori lands vested in the Public Trustee: those occupied by Pakeha to full and special rates, those occupied by Maori or unoccupied to half rates, and no special rates.²⁹

The rating of Maori land was brought back before Parliament in 1902, in 1903, and culminated in the Native Rating Act 1904. The issue was kept alive during this time by opposition Member William Herries who sought to make all Maori land liable for full and special rates, and introduced Bills in each of these years to this effect. The Native Rating Act 1904 extended rating liability to all Maori freehold land, but traces of the five-mile rule remained. Those lands within five miles of a government or county road, or within ten miles of a borough, or that had previously been leased or sold or rated or incorporated, were liable for full and special rates (s.2). Maori land outside these parameters was liable for half rates. Customary Maori land was exempt. Within the several Native townships, the Native Townships Local Government Act 1905 decreed that no land not leased or occupied was liable for rates, and nor was the District Maori Land Council, in which the township lands were vested, liable for rates in excess of revenue derived from each section. These provisions, like the native townships themselves, were short-lived, being repealed three years later. Finally in 1910, after three decades of intense debate, Maori freehold land was brought into the full ambit of rating liability on the same basis as general land, under

²⁷ Towers, p 43

²⁸ Crown and Native Lands Rating Act Repeal Act 1888, s.5

²⁹ Rating Act Amendment Act 1895, s.2

the Rating Amendment Act 1910. Customary land remained exempt. Vested lands (either in the District Maori Land Boards or the Public Trustee) were liable to the extent of revenue received from the land during the current and following three years (s.4) and the liability of occupiers of Maori land was widened to include informal and short-term occupation (s.6). This provision continued under the Rating Amendment Act 1913, but any number of titles, whether contiguous or not, having the same beneficial owners were now collectively liable, so that revenue on part could be used to pay rates for the whole (s.9). Provisions regarding the informal occupation of Maori lands were also tightened. While it was not required to enter the names of such occupiers on the valuation roll, they were nonetheless liable for all rates in respect of such land and the new amendment declared that such an occupier (other than the owner) of any part of a block of Maori land was liable for the rates of the whole, until the contrary was shown (s.10).

The liability of Maori freehold land has remained a given in terms of New Zealand law since that time. Under the Native Rating Act 1924 measures were introduced to exempt burial grounds, churches, and marae (no more than 5 acres) in line with similar provisions that existed generally. The ever-dwindling area of customary land has also remained exempt.

1.6 Provision for exemption

Parliament's ambition to draw all Maori land into the rating pool was tempered – in theory if not in practice – by provision for specific exemptions. This provision was largely directed at criticisms that rating would be the means to divest land from Maori owners who, through impoverished circumstances, were unable to pay. Appearing for the first time in the Rating Acts Amendment Act 1893, Maori land exempted from the new liability included those 'which may from time to time be declared by the Governor in Council to be exempted therefrom' (s.18(3)), with special mention made of the 'indigent circumstances' of liable Maori occupiers within a borough (s.18(2)). This provision was widened under the Native Rating Act 1904, the Governor empowered by notice in the *Kahiti* to exempt liable Maori land on the grounds of poverty, 'or for other special reasons, or to any specified class of lands', so long as such exemptions did not affect the rate already levied by the local authority (s.3). Under the 1910 Amendment, such exemptions were to be made by the Governor by Order in Council and could no longer apply to special rates (s.5). The provision was reiterated in the Native Rating Act 1924 and carried over into the Rating Act 1925(s.104).

From 1923 the classification of land, with the removal from the valuation roll of those lands unfit for occupation or required for water or forest preservation, was one-half of Ngata's equation to solve the 'Native rating problem' through State-sponsored development. Under the Native Land Amendment and Native Land Claims Adjustment Act 1926, the Governor's exemption could now be prompted by the

recommendation of the Native Minister, the chairman of the relevant local authority, the commissioner of Crown lands or a judge of the Native Land Court (s.34). The Native Minister was also empowered to release rates arrears from payment on such land, and the rating authority to remove any such property from the rates book (s.34). When Ngata's consolidation scheme was brought to Te Rohe Potae, a blanket two-year exemption over Maori lands was negotiated to implement the program, and promises made that marginal and unproductive lands would not be rated in future. In the case of Taumarunui County Council, the exemption of 142,500 acres of the most remote and mountainous Maori land until 1955 is one in a handful of examples found where the provisions for exempting a class of land have been implemented.³⁰

Although the provision for exemption has remained on the statute books more or less unchanged, it has only ever been used on rare and specific occasions. Under the Rating Act 1967, the Governor General was empowered to exempt by Order in Council, this time on the recommendation of the Maori Land Court with the consent of the appropriate local authority. Such an order could release the land from payment of previous rates which could then be written off (s.149). By this time however, the Minister of Maori Affairs preferred to insist on Crown purchase of marginal areas rather than utilise the 'special treatment' provisions for exemption (see 7.3.2). The provision remains extant today in the Rating Powers Act 1987 (s. 182(2-3)) and the Local Government (Rating) Act 2002 (s.116).

In addition to the provisions for exempting Maori land from rating, since 1924 local authorities have been empowered to remit the payment of any rates on land owned or occupied by Maori, or to postpone payment, as it thinks fit. Local authority jurisdiction to remit rates on Maori land has continued in subsequent rating legislation.³¹ De-rating was developed in Taumarunui County from 1967 to deal with the same undeveloped areas in Maori ownership that had previously been exempt. Current provisions in the Local Government (Rating) Act 2002 allow local authorities to remit all or part of the rates on Maori freehold land if a rates relief policy has been adopted that includes provision to do so, and the local authority is satisfied the criteria in the policy have been met (s.114). This has led to the development by some local authorities of policies which allow for the partial or full remission of rates on different grounds, such as unoccupied Maori land in multiple ownership, or inaccessibility, or environmental preservation.

1.7 Recovery of Rates

The levying of rates on liable rateable property is of course, only one half of the story. The local authority has also to demand such rates, and to collect them. Under the Rating Act 1876 rates demands had to be in

³⁰ Lists of blocks exempted have been compiled in MA 1 406 20/1/7, ArchivesNZ Wgtn, not in DB.

³¹ Rating Act 1967, s.156; Rating Powers Act 1987, s.189

writing and delivered to the person liable (s.48). Rates were recoverable as a debt in any court (s.50), and could be recovered by order of the court against a defaulting occupier by distress and sale of their goods and chattels (s.52). Unpaid rates demanded from an occupier could be recovered from the landowner, if demanded within four months of the due date, with provision for the owner to recoup such payment from the occupier as rent (s.53). Proceedings for the recovery of rates had to commence within two years of due date (s.60). If not satisfied within 6 months, the local body could notify the owner that the property would be sold in 12 months, unless the due rates plus costs were paid (s.61). All such sales were to be by public auction, with the proceeds – with rates and costs deducted – paid to the Public Trustee (ss.62-63). From early times, local government revenue has been protected by the strong-arm of State coercion of property owners to pay, or lose their land.

In the redrafting of rating law six years later, the timeframe for the recovery of rates debt through court was reduced from four months to 14 days after the due date, and that of notification to owners of forced sale or lease halved from 12 months to six.³² Provision was introduced for the remission of rates on the grounds of extreme poverty (s.36). Where rateable property was owned by more than one person, with different degrees of interest, the value of each interest was to be assessed and notice of assessment was to be served on all such owners and occupiers (s.54). As outlined above, no such provisions applied to Maori land rated under the scheme of Crown reimbursement which prevailed from 1882-1888: Maori owners and occupiers of liable land were not notified of rates demands other than the publication of the land description in the *Kahiti*. The sum paid by the Crown was treated as a stamp duty to be recouped when the land was eventually leased or sold.

1.7.1 The nominated owner

By 1893, while Parliament was quick to declare ‘all Native land to be rateable property’, the practical realities of applying the legislation seem to have received less consideration. Were the provisions requiring separate valuations for multiple occupiers, for example, to apply to the multiple beneficial owners and occupiers of Maori land? In the absence of any provision to the contrary, it can also be assumed that the statutory requirements regarding the sending of rates demands would apply equally to the Maori occupiers and owners of land. With regard to recovery, the 1893 Amendment Act introduced a 10 per cent penalty on rates unpaid after 12 months (s.9), and the Rating Act 1894 decreed that where judgement for rates was recorded against any land, whether by means of a charging order or otherwise, no further dealings could be registered until the judgement was satisfied (s.62). Both the 1893 Amendment and the 1894 consolidation stipulated that no Maori land whatever should be sold for the non-payment of

³² Rating Act 1882, ss.26 and 37

rates, nor any judgement or lien registered against such land without the sanction of the local Trust Commissioner.

Fresh from his tour of many Maori districts in the North Island and faced with the wholesale breakdown of applying the Pakeha system to multiply-held Maori land, Seddon returned to the House in 1896 with the solution for the recovery of rates from Maori land: the nominated owner. Under the Rating Amendment Act 1896, where the owners or occupiers of Maori land exceeded four, the local body might, by notice in the *Kahiti* or local newspaper, require such owners to nominate one or more of their number to represent all the owners or occupiers for the purpose of rating. Failing this, the local body itself could nominate a representative owner. Such nominated owners were to be entered on the valuation rolls in lieu of all the other interested owners, served rates demands, and sued for arrears. Any judgement against a nominated owner could be enforced against all owners – but only to the extent of his (and their) individual interests in the land. Further, no judgement could be enforced without the previous written consent of the Native Minister. In lieu of granting such consent, provision was made for the lease of the land subject to judgement to recoup the rates.

Seddon's solution proved ineffectual. As a first step, the requirement of local bodies to seek nominated owners from the Maori land-owning community was not mandatory, and in any event depended on the cooperation of Maori, who were often implacably opposed to rating for all the reasons so eloquently argued by the Maori Members in the House. In the widening gulf between Pakeha local bodies and their non-paying Maori constituencies, the local bodies often came to depend on names supplied by the Valuation Department, which – even less qualified to know the details of Maori land ownership and occupation on the ground – in turn relied on the Native Department for such information.

The Native Rating Act 1904 repealed the nominated owner provisions of the 1890s. Where Maori freehold land had been partitioned and the relative interests defined, each owner and the value of interest was to be listed on the valuation roll (s.6). Where land had not been partitioned, nor the interests defined, the Valuer General was to nominate one owner (per 25 owners) to be listed on the roll and served demands and sued for recovery on behalf of all the owners, although this individual liability would only reflect each interest held in the block (ss.7-8). Recovery proceedings had to begin within three years of the due date. Once again, judgements for recovery could only be enforced with the consent of the Native Minister (s.8), who, in lieu of granting such consent, could authorise the District Maori Land Board to administer the land in order to pay the rates (s.9); or could have the rates paid from appropriated funds himself and treated as a charge against the land (s.10). In a precursor to the consolidation schemes two

decades away, rates could be paid by the Native Minister, the value of such payment to be recouped in land by order of the Native Land Court when the land was partitioned (s.11).

1.7.2 Rating Amendment Act 1910

Despite the statutory liability, county councils continued to see little return from Maori-occupied lands within their districts. Some, like Raglan County Council, made a point of trying to use the legislation to effect recovery, but by 1908 had given it up as a bad job, preferring to remove Maori lands from the county roll rather than miss out on hospital subsidies and reduced levies as a result of their inclusion. Experience had shown that the nominated owners' names supplied by the Valuation Department were invariably wrong, that litigation was expensive, and that even where judgements were made, the Native Minister refused to consent to their enforcement. As a result of growing pressure from counties, recently organised into a collective association, Maori rating was back before Parliament in 1910.

The Rating Amendment Act 1910 was aimed exclusively at Maori land: all Maori freehold land was now liable to full and special rates on the same basis as general land. Rates from titles in severalty – those held by a single owner – could be recovered on the same basis as European land. For land owned in common, two or more representative owners could be placed in the owners' column of the valuation roll, and in cases where the owners also occupied the land, any two could be entered in the occupiers column 'as nominated Maori occupiers' (s.7). Although the Valuer-General was still primarily responsible for the compilation of such lists, additions and alterations requested in writing by the president of the Maori Land Board or the judge of the Native Land Court could be acted on without further inquiry.

Rates demands were to be sent to the nominated owners or occupiers 'or any one of them', who could also be sued on behalf of all the owners (s.8). If judgements were not satisfied within a month, the debt could be charged against the land, to be registered with the District Land Registrar on the title (s.14). Local bodies could then apply to the Native Land Court to have the charge enforced: either by the appointment of the Maori Land Board or Public Trustee or any other person as a receiver of the rents and profits of subject land; or by vesting the affected land in the Maori Land Board or Public Trustee in trust to sell.

The 1910 amendment received a lukewarm response from local bodies: the new provisions did little to fix the problems that had been identified, and there was little enthusiasm to deal with the Native Land Court. More importantly, in their view, the Native Minister's continued veto over the enforcement of any judgement meant that taking such action would be pointless. When the Liberals were defeated at the 1912 election, local body hopes were raised that the Reform Party would indeed bring about significant change.

William Herries, long-term advocate of bringing Maori rating provisions in line with general land, was given the portfolio of both Lands and Native Affairs in the new Cabinet.

1.7.3 Rating Amendment Act 1913

In the event, Herries' contribution fell short of local body expectations. The Rating Amendment Act 1913 put the onus on the registrar of the Native Land Court to keep a record of multiply-owned Maori lands and the respective nominated owners and occupiers for rating purposes, and to advise both the Valuer General and the relevant local body of any changes either to the named individuals or the status of the land itself, through partition or alienation (s.11(6)). On the other hand, the court was cut out of the charging order process. Under Section 14(1) if rates levied on Maori land remained unpaid for more than nine months, the local body could simply have a lien registered against the land at the District Land Registrar in the prescribed form. In doing so, the local body was compelled to notify the registration in the *Kahiti* and to notify the nominated owners by post. Under Section 15, the owners were prevented from leasing or selling or otherwise dealing with their land until the lien, or the charging order under the 1910 Amendment, was discharged. The period of action for recovery was extended from three to four years.

Herries had been unable to solve the problems posed by rating multiply-owned lands. The 1913 amendment retained a semblance of keeping representative owners in the loop in terms of rates demands, but cut them out of the process of judgement for unpaid rates. The legislation also meant that local bodies would only obtain the registered or charged rates when the land came to be leased or sold. Significantly, in spite of his long-held opposition to 'special treatment', as Native Minister Herries too, refused to give his sanction to the sale of Maori land for unpaid rates.

Local body agitation over the non-collection of rates from Maori land intensified as the First World War drew to its end. The war had resulted in the curtailment of government spending on local infrastructure while local body debt had ballooned. Local authorities were faced with the reality of paying back debt incurred in times of optimism and from a static, and by 1921, shrinking rates pool as land values declined. An obvious target, particularly in counties where it remained a significant proportion of area, was non-contributing Maori land. The 1924 Native Rating Commission identified a number of issues accounting for the non-payment of rates by Maori, many of which were administrative. This situation was neatly encapsulated by the Mokau Harbour Board in 1931:

Each year we lose between £13 and £14 in rates, as we find it impossible to collect anything. If we do manage to deliver a Rate Demand to any particular Maori, he immediately states that there are other interests and when they pay, he will pay. On

the other hand practically all our Rate Demands to Maoris, when posted, are returned to us marked 'Unclaimed'.³³

The resulting Native Rating Act 1924 placed the Native Land Court into the centre of rates collection and did away with having to deal with the multiple owners of Maori land altogether.

1.7.4 Native Land Rating Act 1924/Rating Act 1925

The Native Rating Act 1924 no longer distinguished between land owned in severalty and that in common: a single process for collection applied to both. A nominated owner might still be appointed by the Native Land Court for the purposes of voting, but the names of nominated owners or occupiers were no longer required to be entered in the valuation roll, and nor was it expressly stipulated how rates on Maori land were to be demanded. Rather, a rates claim was to be lodged with the registrar of the Court no later than two years after due date. Such claims were to be treated as applications for charging orders, to be heard by the Court. In special circumstances of hardship the Court could remit whole or part of any rate. If granted, charging orders were to be registered against the title, and owners were prevented from dealing with their land until the amount had been paid. Under the 1924 Act, the failure of the Native Trustee or Maori Land Boards to pay rates within nine months of the demand could result in the same charging order procedures being taken against vested lands.

Judgments for charging orders could be enforced through the Court appointment of a receiver, in terms of Section 31 of the Native Land Act 1909. In addition, if a charge remained unpaid after one year the Court could order, subject to the consent of the Native Minister, that the land be vested in the Native Trustee for sale, either the whole or any part, to pay the charge. The Native Trustee could also mortgage the land to pay the rates.

The Native Rating Act 1924 was inserted unchanged into the Rating Act 1925. From this time, the charging order system was used by local bodies to deal with unpaid rates from Maori land, although it was another decade before judicial resistance to enforcing the judgement through receivership was successfully challenged. Local bodies had to apply for charging orders within three years of the date rates were due, the charge remaining on the title until discharged through payment. Every three years then, new charges could be added until the amount of the charge outweighed the value of the land. For many years the whole process occurred without the knowledge of the landowners, for they were neither sent demands

³³ Secretary Mokau Harbour Board to Ngata MP, 12 October 1931, MA 1 402 20/1/1 part 2, ArchivesNZ Wgtn; DB:234

nor notified of the local body's application for a charging order other than by the block notice in the *Kahiti*.

Ngata had long argued that development was key to solving the non-payment of rates, achieved by the consolidation of fragmented titles and State-funded capital. The clearance of rating debt and other charges was considered to be a necessary prerequisite to the process, not least because of on-going pressure from local authorities over districts in which there was significant proportion of Maori land. The raft of consolidation legislation enacted between 1923 and 1931 provided for compromise payments to local bodies for rates arrears on Maori land, to be paid by the Crown, and recouped in land to the value of the sums paid.³⁴ Local bodies were empowered to accept the negotiated lump sum payments in full satisfaction of claims to rates levied. Payment was to be met from the Native Land Settlement Account via the Maori Land Board, with the Native Land Court empowered to make orders vesting lands in the Crown. Within Te Rohe Potae, the deal brokered by Ngata in April 1928 involved the payment of £16,950 to the combined local bodies of Te Rohe Potae and a two-year exemption of Maori land from rates in order to complete a district-wide consolidation scheme. Concomitant promises to remove marginal lands from the valuation roll were not kept.

From 1936 the receivership lease became the mainstay of collecting rates from Maori land. Efforts to correct valuation rolls, improved returns from development schemes and direct deductions from dairy factory earnings increased the rates returns from Maori land in districts where development had occurred. In Te Rohe Potae however, by 1945 the promises of consolidation and development had come to little. From 1933 to the end of the Second World War the local bodies of the King Country were faced with large areas of both Crown and Maori land from which no rates could be collected. Throughout this period the local authorities of the King Country – Waitomo, Kawhia, Otorohanga, and Taumarunui County Councils and the Te Kuiti Borough Council – spearheaded the local government pressure for a rates return from Maori land. From 1945 they were joined by Raglan County Council to have unproductive Maori land made available for settlement. Non-payment of rates and unpaid rates charging orders became one of the grounds under the Maori Purposes Act 1950 (s.34), empowering the Court to order the appointment of the Maori Trustee as agent for the owners of Maori land for the purposes of alienation by lease or sale. These provisions were reworked into Part 25 of the Maori Affairs Act 1953. The legislation was utilised primarily in Te Rohe Potae in the decade of the 1950s and endured until 1970 when the

³⁴ The legislation comprised the Native Land Amendment Act and Native Land Claims Adjustment Acts of 1923, 1926, 1927, 1928, 1929 and 1930 and the Native Land Act 1931, and is discussed in Terry Hearn's 'Land Titles, Land Development and Returned Soldier Settlement in Te Rohe Potae', (December 2009)

whole of Part 25 was repealed.³⁵ When the Rating Act of 1925 was updated in 1967, the charging order provisions over Maori land endured. On making a charging order, the Maori Land Court was now required to consider the future use of the land including future payment of rates, and provision was made to vest the land in a trustee for lease or sale.³⁶ The power of a receiver or trustee to sell Maori land for rates was removed 20 years later under the Rating Powers Act 1988 (s.188).

1.8 The ‘Native Rating Problem’: arguments for and against

The fact that it took the settler government more than three decades to fully drag Maori land into the rating pool is an indication of the strength of Maori resistance to the measure. The county system of local government was only established once the government’s control of the colony was assured, and the cautious approach to the inclusion of Maori land into the category of rateable property was initially guided by Parliament’s reluctance to ignite further resistance. As Colonel Whitmore put it in 1882: ‘When we were weak we were craven enough – we did nothing to touch the Natives then, but gradually as we have got stronger we have come out of our shells more and more...’³⁷ The imposition of a general property tax over Maori land was primarily a political act.

1.8.1 Arguments For: paying a ‘fair share’/responsibilities of citizenship

Local territorial taxation to fund local infrastructure was fundamentally, as Atkinson put it in introducing the Crown and Native Lands Rating Act 1882, a decision that ‘the lands of the colony must construct and maintain the roads of the colony’.³⁸ The nub of Pakeha argument for including Maori lands as rateable property was that Maori used the roads and bridges built and maintained by local body rates and should therefore contribute their ‘fair share’ to local body revenue. In addition to use, over time it was increasingly argued that Maori also benefited from the increased land values as a result of road development. That the ‘burden’ of financing local development should fall solely on Pakeha ratepayers was decried most forcefully by North Island county councils of districts in which European settlement had established a strong foothold amidst a significant Maori presence. Long-serving MP for the Bay of Plenty, William Herries was a steadfast advocate of making all Maori land liable for full and special rates, introducing Bills to this effect in 1902, 1903 and 1904. Reflecting the concerns of his Pakeha electorate he maintained that anything less was ‘altogether out of keeping with a democratic age. A member of the

³⁵ Section 6, Maori Purposes Act 1970

³⁶ Section 155(2), Rating Act 1967

³⁷ Whitmore, NZPD 1882, vol 43, p 868, cited in Towers, p 35

³⁸ Atkinson, NZPD 1882, vol 43, p 703, cited in Towers, p 31

Native race used the roads just as much as the pakeha did, and there was no reason why he should not be charged the same rates.’³⁹

As philosophical back-up, from an early date Pakeha pointed to the dangers of ‘special treatment’ the rating exemption reflected. Whitmore in 1876 argued that the exemption of Maori land ‘was keeping up that separate government of the Natives which they ought to endeavour to destroy. They should take every possible step to place the Natives in exactly the same position before the law as themselves.’⁴⁰ The call to put Maori land ‘on the same footing’ as European land was to resound from Te Rohe Potae local bodies for the first half of the twentieth century. Both of these arguments congealed into the position that in claiming the rights and privileges of British citizenship, Maori had to accept too the responsibilities: ‘If the Natives are to receive the benefits of European settlement, - and in many respects they are benefited by our laws, - I think they may fairly be expected to contribute a small portion to the taxation of the country.’⁴¹

1.8.2 Arguments Against

If the growing imposition of territorial taxation reflected a new-found belligerency of settler government, Maori objections to rating were equally politically inspired. It takes but little to imagine the ire caused by the overnight imposition in 1882 of a new charge on communal lands held for generations. The initial reaction was to challenge Parliament’s right to do so, particularly without the prior knowledge or consent of Maori. Hone Tawhai, MP for Northern Maori asked the House:

I should like to know what right they have to pass a bill rating Native lands. That is a matter for us Native members to consider. If we, the four Native members, are unanimous in opposing this Bill, why should the European members force it through?⁴²

Maori generally regarded the extension of rating liability over Maori lands as a ruse to acquire Maori land. As Pere argued against the 1882 Bill: ‘I consider that the Maori people should make their own laws with regard to their land; let those laws be made in accordance with Maori customs, and be brought into this House for confirmation. If the Act I speak of is allowed to remain in force, I believe that the whole of the Native lands will be taken...’⁴³ Such interference, it was argued, ran counter to the guarantees of the Treaty of Waitangi. Early concern about the implications of rating within Te Rohe Potae, articulated to

³⁹ NZPD 1902, p 524, cited in La Rooij, p 24

⁴⁰ Whitmore, NZPD 1876, vol 22, p 28, cited in Towers, p 25

⁴¹ Ward, NZPD 1893, vol 81, p 399, cited in Towers, p 49

⁴² Tawhai, NZPD 1882 vol 43, p 703, cited in Towers, p 32

⁴³ Pere, NZPD 1884, vol 48, p 99, cited in Towers, p 38

the Secretary for the Colonies in London in 1884, was founded on the Treaty and its guarantee to Maori of the undisturbed possession of their land, and the issue quickly became one of the sticking points in the negotiations with the Crown to open the region up to settlement. In February 1885, principal tribal negotiator John Ormsby obtained Native Minister Ballance's public agreement that unoccupied, unsold and unleased Maori land within Te Rohe Potae would not be liable for rates (see 2.2). Tame Parata, MP for Southern Maori argued against the Native Rating Act 1904 on the grounds that under the Treaty, Maori should have 'assured to them all their lands, forests, fishing rights, and so forth. And yet, in the fact of that, here is a Bill which seeks to impose rates upon their lands. Is this not in itself a violation of that clause in the Treaty of Waitangi?'⁴⁴ In the Legislative Chamber, Te Wherowhero Tawhiao too, likened the rating legislation to confiscation '... I do not consider it fair that the one party should take upon themselves the right to confiscate the Native lands when it had already been arranged by Her late Majesty that the Natives were to have full control over their own lands.'⁴⁵

Of fundamental concern about the 1882 Act and subsequent provisions which sought to recover unpaid rates by way of a charge against the land, was the fact that the whole measure was based on the premise that Maori land would be alienated: the State guarantee of reimbursement depended on the subsequent recoupment of such expenditure. More than this, the charge would arguably become the means to do so, rather than the result:

There could be nothing more unfair than this: that the Native children, who are supposed to inherit the estates of their fathers, should come into possession of them to find that they had been taxed for about ten years. And they will come into what? They will find themselves on the wrong side of the ledger.⁴⁶

Worse still, in the absence of any requirement to serve demands, this indebtedness would accrue without the knowledge of the owners, a feature that endured in subsequent legislation as governments struggled to deal with the complexities that the rating of multiply owned and occupied lands posed.

Another argument often put by Maori was that they had already contributed in full towards settlement, both in the nominal prices they had been paid for their land under Crown pre-emption and subsequent stamp duties, and through the donation of the actual land on which roads and other public works were located. Throughout the provincial period, local works had been largely paid for from the Land Fund, the accumulation of profits made by the Crown from the cheap purchase of Maori land and its on-sale to

⁴⁴ Parata, NZPD 1904 vol 128, p 201, cited in Towers, p 76

⁴⁵ Te Wherowhero, NZPD 1904, vol 131, p 809, cited in Towers, p 79

⁴⁶ Stevens 1882, vol 43, p 710, cited in Towers, p 34

settlers – once cut up and surveyed – for considerably more. When private purchase was allowed from 1865, a 10 per cent stamp duty had been attached to each initial transaction, deducted, Maori complained, from the purchase price. Maori, in effect, had funded the costs of settlement through the cheap sale of their land. From 1862 too, up to 5 per cent of any land block for which title had been determined could be taken for road and rail construction without compensation to the owners. This remained one of the principal grounds of opposition to rates advanced by Maori within Te Rohe Potae, articulated by Arthur Ormsby in 1907; by Peter Barton in 1927; and by George Turner in 1949.

It was also repeatedly pointed out from very early on that restrictive land legislation meant that in terms of land ownership, Maori did not enjoy the proprietary rights and privileges exercised by other British citizens:

I suppose that no one would deny for a moment that if the Natives were in beneficial occupation of these lands they ought to contribute to the cost of the construction and the maintenance of the roads that give their properties increased value; but it is well known that they are not in such beneficial occupation, and to a great extent they are unable to utilise their lands in consequence of the difficulties with which our laws have surrounded them. It is not their fault to a great extent that they are not able to deal with the lands and obtain substantial revenues from them.⁴⁷

By the turn of the century it was claimed by Wi Pere that such restrictions had rendered Maori lands valueless, with the owners unable to do anything but gaze upon them.⁴⁸ Crown pre-emption had been reinstated in 1894, which meant that once again Maori were prevented from receiving a market value for their lands. During debate over the 1895 Amendment, Hone Heke sought a rating exemption for Maori land not bringing in any revenue. Wi Pere's follow-up proposal that the Rating Act should not apply to any established Maori pa with its cultivations and houses other than those leased to Europeans, was defeated – twice. This was followed by further unsuccessful attempt by Heke:

Nothing in this Act or the principal Act shall apply to any land where the Native owner or owners of such land are prevented by law from leasing or selling his or their land to persons other than the Crown: Provided that nothing in this section shall apply to lands which are being beneficially occupied by any Native owner or owners of such land.⁴⁹

⁴⁷ DeLautour, NZPD 1882, vol 43, p 703, cited in Towers, p 32

⁴⁸ Pere, NZPD 1904, vol 128, p 205, cited in Towers, p 75

⁴⁹ Heke, NZPD 1895, vol 91, p 299 cited in Towers, p 56

For in addition to the commodification of land, rating was founded on production, which in turn required capital. Seddon's remark to an aggrieved assembly of Maori at Waimate in 1895 was only one part of the puzzle: 'I am sorry the Natives have not more money to enable them to pay their rates; but they keep the land locked up. They will not make any money out of it themselves and will not let anyone else. They are therefore rich and yet poor.'⁵⁰ Maori in fact were facing increasing liability, without the requisite access to, or freedom to obtain, the capital required to develop their lands to give them the means to pay the annually recurring rate. From the turn of the century, the issue of rating became increasingly connected to that of development, with Maori MPs calling both for the end to restrictions on dealings with Maori land, and to access for Maori farmers to State development finance through the Advances to Settlers Scheme. Carroll was well aware of both issues when he introduced the Native Rating Bill in 1904. When the Bill was referred to the Native Affairs Committee a clause was added to allow Maori owners of land liable to full rates to lease their land freely, subject to the authorisation of the Maori Council or Native Land Court judge. This would have met to a limited extent the concerns of Maori threatened with full rates liability but with no means to pay. The clause was removed on the recommendation of the Attorney General who argued for government control in view of its responsibility to see that Maori were not rendered landless.

In addition to the fundamental challenges set out above, criticisms were also directed to the inequities wrought by the application of a local government system based on individual occupancy to Maori communal lands, particularly in terms of representation and the provision of service. Ironically, no one was more alive to this than the Native Minister responsible for orchestrating the Native Rating Act 1904:

members must bear this in mind: that Natives do not possess or enjoy the same privileges in these localities which are conferred by these [Rating] Acts on Europeans. They are not on the ratepayers list; they are not on the local bodies; they have no voice in creating special rates; they have no voice in determining what rates shall be raised or what works shall be undertaken. And, as a matter of fact, in any district where there is a large sprinkling of Native population, such portions of land as are held by them are seldom improved by roads or bridges. Those portions of the district which they hold are carefully ignored, and the Natives do not get the advantage they might otherwise reap from a general expenditure of the funds of the local bodies.⁵¹

This was the flip-side to Pakeha arguments about contributing a 'fair share'. Ongoing Maori complaints about the lack of local body service were largely dismissed, either on the grounds that they could not expect service if they did not pay rates, or that Maori used the existing road network as much as Pakeha

⁵⁰ AJHR 1895, G-1, p 5

⁵¹ Carroll, NZPD 1903, vol 124, p 76, cited in Towers, p 71

ratepayers did. Tipi Ropiha, Under-Secretary for Maori Affairs, explained as much to his new Minister as late as 1950:

I believe that a great deal of the antipathy to the payment of rates is due to the fact that many Maoris are completely unaware of the purposes for which the money is used by the Counties and they can see no good purpose in paying money for nothing. It is noteworthy that propaganda on this subject paid very handsome dividends in the Waiapu County. In many Maori communities road access is a very pressing need, but owing to the non-payment of rates County Councils will seldom spend money on such roads. An explanation by the local bodies as to how they are financed and how they spend their revenue would, I think, be of great assistance in breaking down the opposition of the Maoris. It would show them that they would not be throwing money away by paying rates, but would, in fact, be simply paying their due proportion of the cost of amenities which they use almost daily. Instead of the Counties demanding something for nothing, as the Maoris believe, the true position at present is that the Maoris are demanding something for nothing.⁵²

The ‘no roads for no rates’ versus ‘no rates for no roads’ became an impasse between Maori farming communities and local government, described in the context of the Tauranga Moana Inquiry as a ‘dismal symmetry’, which is explored in Chapters 9 and 10. As the example of Taharoa shows, the short-sighted self-interest driving the whole system had lamentable results for both Maori and Pakeha.

In the result, the tide of Pakeha settlement proved too strong for Maori opposition in the House, but the fight over rating within the counties of New Zealand was by no means won. The arguments set out above contain the essence of the struggle played out in Te Rohe Potae for the following half century and beyond, which is the subject of Chapters 2-7.

⁵² ‘Maori Rates’, 15 December 1950, MA 1 405 20/1/1 part 5, ArchivesNZ Wgtn; Towers DB:842

Chapter 2

‘... Like the Tide Coming In’:

Pakeha Settlement in Te Rohe Potae, 1876-1915

On the fringes of Te Rohe Potae, where confiscation and Crown purchase was the basis of subsequent Pakeha settlement, early local government consisted of road boards under provincial government control. Designed to meet the needs of outlying areas neglected by the provincial metropolis, the road board mechanism enabled settlers in a defined district to rate themselves to form local roads. Self-interest dictated that the districts were small. It also meant that for a decade following the 1876 reform, sparsely settled areas had to be coaxed into implementing full county status with its general application of rating.

The counties of Kawhia and West Taupo – constituting an area resembling Te Rohe Potae – were two of the 63 counties described in the schedule of the Counties Act 1876 (which might, perhaps, have served as a warning to the resident iwi, had they known). But these counties were also two of six in which the operation of the Act was suspended. The exemption of these local government districts on account of them being ‘entirely Native districts’ further reinforces the reality that local government was primarily devised for Pakeha settlement. As outlined earlier, Kawhia and West Taupo were also explicitly exempted from rating legislation in 1876 and 1882.

The counties of Kawhia and Waitomo were gazetted within months of each other, in the winter of 1905, coinciding with the widespread liability of Maori land as rateable property the previous year. Local government, it was confidently predicted, would prove to be the ‘open sesame’ to development, enabling the improvement of road communications to the isolated enclaves of Pakeha settlement on Crown balloted lands in the region. The immediate reality was somewhat less. In the first decade of the twentieth century, Te Rohe Potae was New Zealand’s latest frontier, and the woes of its newborn local government – the provision of the requisite local infrastructure – just one aspect, albeit a vital one – to what was referred to as ‘The Native Land Question’. For New Zealand’s Premier, and most of the Pakeha population, it was not so much of a question, as a given. ‘Native land must be opened up’ Seddon said to

a crowd at Te Aroha in February 1906 ‘the demand for surplus Native land was like the tide coming in.’¹ Quick and close settlement of Te Rohe Potae, that ‘great, dumb, neglected country, with its free, broad, fertile acres, lying waste’² was inextricably connected to local government, for local development – the roads, the bridges, the public amenities, the future of Pakeha settlement itself – depended on it.

The following narrative explores the role of the new local authorities in both districts in this debate, dealing first with developments in Raglan County, and then turning to the activities and impact of early local government within Te Rohe Potae. Given the limited extent of official local body records that have been located, local newspapers have provided an important source of information about this era.

2.1 The Counties of Waipa and Raglan

County government in Waipa and Raglan was preceded by a number of provincial road boards, as Raglan County historian CW Vennell put it, ‘an association of land proprietors banded together to improve the means of access to their properties and thus increase their value.’³ The first of these, the Whaingaroa Road District, was proclaimed in 1866: some 53,000 acres of land running between the Whaingaroa and Aotea Harbours, and inland as far as the provincial government land.⁴ The district’s largest landowner – and largest taxpayer – Captain JC Johnstone was elected chairperson. Raglan Town Highway District was proclaimed in May 1868, with control over the affairs of its 52 households by 1874.⁵ In 1869 the trustees of the Pirongia Highway District met for the first time, all of them, according to Vennell, ‘men with substantial holdings’. Included on the inaugural road board was EG McMinn, also Waipa representative on the Auckland Provincial Council, setting an early precedent for the upward mobility of local politicians. On the successful petition of settlers of Karioi, in 1871 the Karioi Highway District was carved from the existing Whaingaroa Road District, the focus of the new board being the construction of a cart track from Te Mata to Raglan.⁶ By 1873 highway districts of the Auckland Province operating on the fringes of Te Rohe Potae included Alexandra Township, Karioi, Mangapiko, Pirongia, Rangiaohia, Town of Raglan and Whaingaroa. Early road board administration as described by Vennell was noted for sharp differences of opinion over rating, damage by wandering stock and the impounding of the same, which was manifested in the rapid turnover of elected board trustees.

¹ Reported in *Kawhia Settler*, 26 February 1906; not in DB

² ‘The Great Question: Native Lands in the Rohe Potae, No. II’, *King Country Chronicle*, January 1907; DB:2727

³ Vennell, p 102

⁴ Vennell, p 101

⁵ Vennell, p 103

⁶ Vennell, p 104

Waipa County comprised 180,000 acres of confiscated land lying between the Waipa and Waikato rivers, its southern boundary the Puniu River. The county was carved up into the five ridings of Mangapiko, Rangioahia, Pukekura, Hamilton, and Newcastle, but the eight existing road boards continued to function. According to county historian Laurie Barber, the 1870s was marked by the activities of Auckland speculators dealing with abandoned military sections. These men held land across all the ridings of the new county, including thousands of acres of rejected swamp land. Barber contrasts these speculators who bought and sold and moved on, with the 20-30 'small farmers' he describes as the 'true creators' of Waipa County, who weathered the depression of the 1880s.⁷

2.1.1 Early Road Board operations

The rating powers of the fledgling local government entities operating on the frontiers of Te Rohe Potae would have had little direct impact on Maori prior to the mid 1890s because for much of this period Maori land was exempt. The main roads in Waipa and Raglan Counties were military communications of national significance and financed largely by central and provincial government. From the 1870s central government increasingly tended to bypass the provincial authorities, granting funds for roads directly to the local road boards. Construction work provided welcome income for both Pakeha and Maori in the frontier economy. Maori involvement in road-making in this decade was part of Native Minister McLean's policy, the wages from such work serving both as a form of social welfare to struggling communities as well as the palliative to overcome resistance to the formation of such roads through Maori land. Local Maori under the direction of Hone Te One for example were given the contract to build the Te Mata-Aotea road over 1872-74 and Maori were employed on the Waipa-Raglan Road in 1878. In addition to road board grants from the Public Works Department, highway boards operating within the Raglan district received monies for local road formation via the Native Department. Such grants were made conditional on the employment of Maori labour on the portions of the road that passed through Maori lands. Karioi Highway Board was granted £100 in February 1874 on this basis for the Raglan-Aotea road. In view of the fact that the road did not pass through any Maori land, the board recommended that the money be spent forming road at the end of the district 'on the road leading into the native territory', a course of action it maintained was agreed to by Hone Te One and Kawene.⁸ In some cases Maori agreement to road formation through their lands rested on the same understanding. In September 1878 for example the Karioi Highway Board approached the Native Minister for a financial contribution to have a road put through the Wharetakahia reserve near Raglan. The Minister was assured that the board would

⁷ LH Barber, *The View from Pirongia: The History of Waipa County*, (Te Awamutu, Richards Publishing and Waipa County Council, 1978), p 41

⁸ Karioi Highway Board clerk to McLean, 24 February 1874, KHB 1/1, Waikato DC; DB:1996-7

employ Maori to do so, and that Maori agreed to the road as long as they were employed making it.⁹ These arrangements continued to resonate long after the policy had been abandoned: when blight destroyed the potato crop of 1906, communities around Kawhia turned to Native Minister Carroll to intercede with the local road boards and county council for relief work. In the case of Hauturu the appeal seems successful; at Aotea it was not.¹⁰

It could be argued that throughout the 1870s McLean's arrangement meant that Maori interests were looked after to an extent, in terms of providing immediate income and longer-term road access. It is also the case that the road boards operating in the district had such meagre resources that their activities were arguably insignificant. But this early period does hold the seeds of future discord between both communities. In the absence of any financial liability from Maori lands falling within the prescribed highway or road districts, the road boards felt scant obligation to consider Maori interests outside of tagged government funds. Rather, board funds were seen to be for 'opening up new lines, which would only be used by the European settlers.'¹¹ Likewise, a decision on the expenditure of the Karioi Highway Board's 1874 road grant was deferred until the trustees found out 'the intentions of the General Government with regard to the roads in the district, upon which they intend to employ native labour...'¹² By the same token, the boards were quick to appeal to the Native Minister for assistance with road formation for farming purposes if Maori were perceived to benefit from any locally-funded works. In September 1872 the Native Minister was approached about extending the Aotea road line under construction another two miles to Kauroa, completing the main line of road between Aotea and the Raglan and Waipa Road: 'The natives largely use this line, and as they pay no Highway rates, contribute nothing towards either the cost of making or keeping the road in repair...'¹³ In the winter of 1874 the board expressed its disappointment with the government's refusal to sanction further expenditure on the Aotea road, 'as the number of Maoris with their pigs now passing at this season of the year leaves it in an almost impassable condition.'¹⁴ In September 1876 McLean was again approached for funds to bridge the road. Two Pakeha settlers had contributed £4 and the trustees requested the balance from the Native

⁹ Karioi Highway Board clerk to Native Minister, 30 September 1878, KHB 1/1; DB:2008

¹⁰ See R Matini to Carroll, 25 April 1906 in MA 1 868 1906/33; RP Paki to Carroll, 19 November 1906, MA 1 905 1906/1345, ArchivesNZ Wgtn; not in DB

¹¹ Karioi Highway Board clerk to Native Minister, 12 September 1872, KHB 1/1, Waikato DC; DB:1995

¹² Karioi Highway Board clerk to Native Minister, 5 January 1874, KHB 1/1; DB:1996

¹³ Karioi Highway Board clerk to Native Minister, 12 September 1872, KHB 1/1; DB:1995

¹⁴ Karioi Highway Board chairman to Minister Public Works, 7 July 1874, KHB 1/1; DB:2000

Minister 'as the works will be entirely for the benefit of the Natives'.¹⁵ The bridge was completed by the following year.

Early requests for road grants also reveal the extent to which the small road boards promoted Pakeha settlement within their districts. TB Hill's 1870 request for special road grants in the Karioi Highway District as chairman of the board drew attention to the benefit of forming access to the provincial lands in the district: 'the Western portion of the Karioi district is a block of very good land and, were there roads, would be very suitable for settlement under the new Waste Lands Act. Your Honour will see the advantage of having a district population, which is as contiguous as this is, to Kawhia, the head quarters of the King party.'¹⁶ Ten years later the same board requested the Waste Lands Board to throw open the remainder of the government lands in the district for selection under the Homestead Act.¹⁷ That year too, the board petitioned Parliament to have the Opoturu creek bridged and a road formed through the Kopua reserve, the lack of which, it was claimed, prevented the settlement of the Karioi block. Former Maori resistance, the petition read, had been overcome – not least by hunger: 'The natives have consumed their supplies of food, and are in distress in consequence' – and the resulting access to both government and private properties would both encourage settlement and increase their value.¹⁸

For Waipa County, and to a large extent for the Raglan road districts as well, the issue of rating in this pioneering period was not related to Maori land, but one of dwindling provincial government subsidies, followed by the problems posed by absentee and defaulting landowners. In November 1874 the Mangapiko Road Board trustees resigned over their failure to extract money from the provincial government. The bridges on the Te Awamutu road were said to be 'in a very dangerous state' and provincial government refused to take over responsibility for them, nor transfer to the board money which had been granted for their repair.¹⁹ The following May the trustees again approached the provincial government to hand over revenue received from the sale of confiscated land for the improvement of the main roads. That year too, the board decided to take legal action against defaulters.²⁰

¹⁵ Karioi Highway Board clerk to Native Minister, 12 September 1876, KHB 1/1; DB:2003

¹⁶ Karioi Highway Board chairman to Superintendent Auckland Provincial Council, 11 November 1870, KHB 1/1; DB:1994

¹⁷ Letter dated 20 March 1880, KHB 1/1; DB:2009

¹⁸ Petition in above; DB:2010-11

¹⁹ Mangapiko Road Board minute book 1874, 21 November 1874; DB:2194

²⁰ See for eg Mangapiko Road Board chairman to Superintendent, 22 April 1875, in above; DB:2196

In this early period the oversight of McLean and the expenditure of the Native Department provided a bridge between two diverse communities of interest in the rural frontier. While the principal concern of road boards remained meeting the needs of constituent ratepayers (a group to which Maori by and large could not belong), government grants in lieu of rates coupled with the conditions of how it was to be spent, went some way to including Maori in the developing economic and social order. The government's role of 'go-between' however came to an end when Bryce took over from McLean as Native Minister in 1879. Ward tells of the drastic cuts to Department expenditure, both in terms of salaries and 'contingencies', that had adverse effects in outlying districts.²¹ Not only was the close association between Maori leaders and the machinery of the government curtailed, Ward recounts that Bryce also refused to mediate between Maori and local bodies and private settlers in land disputes. Maori petitioners were simply advised to use the courts. Similarly, with regard to local government the withdrawal of adhoc government funding in lieu of Maori rates was replaced in 1882 by new rating legislation which made Maori land within five miles of a public road liable for rates, with the Crown guaranteeing the liability in the event of non-payment.

The amounts paid out by Treasury by 1886 to local bodies operating in the Inquiry District for rated Maori land under the Crown and Native Lands Rating Act 1882 are shown in the table below.²² Raglan County Council is absent from these figures because the county had not yet implemented the full operation of the Counties Act, all of its monies being distributed to its constituent road boards.

Table 1: Payments to Local Bodies under Crown and Native Lands Rating Act 1882-1886 (£ s d)	
Waipa County Council	2 5 10
Mangapiko Road Board	2 11 0
Alexandra Town Board	0 5 2
Kihikihi Town Board	-
Te Awamutu Town Board	-
Karioi Road Board	22 8 2
Pirongia Road Board	-
Whaingaroa Road Board	30 12 0
Clifton Road Board	0 19 11
Clifton County Council	54 9 7

²¹ Alan Ward, *A Show of Justice: Racial 'amalgamation' in nineteenth century New Zealand*, (Auckland University, 1995 reprint), pp 282-3

²² 'Payments to Local Bodies under Crown and Native Lands Rating Act', AJHR 1886, B-15, pp 3-6

The financial impact of the legislation in the region was comparatively small. Within the confiscated territories of course, little Maori land remained to rate. In Waipa County a single ‘Native’ holding of 130 acres at Puniu was all that remained of the former Ngati Apakura homeland.²³ Of the 323 assessments in the Mangapiko Riding by 1883, eight of these were Maori: three holdings at Ngaroto amounting to 265 acres, and the remainder small sections at Alexandra East (Pirongia).²⁴ To get a rough idea of the relative importance of the Crown’s reimbursement scheme to the local bodies, the £22 8s 2d paid out to Karioi Road Board over a four-year period can be compared with its 1878/79 rates receipts of £42 16s 10d – not much. Nor were the payments made to King Country local bodies significant in the national context, for by this time over £40,000 had been paid out by Treasury; £29,894 on account of Crown lands and £10,199 on account of Maori lands.²⁵

Again, what *is* significant is that the Act marked a turning point, a move away from ‘special’ government provision or oversight, a step towards amalgamating Maori within the local government system, without, it must be added, any change to the structure of the system to accommodate their different realities. The sums meted out to the road boards of Raglan County under the Act compared poorly with the Native Department’s magnanimity of the previous decade, and nor was there any longer any government supervision over how these ‘Maori’ funds were spent.

In addition to these cutbacks, in Vennell’s history of the county the suggestion is made that the recalcitrant local road boards were purposefully starved of government funds to coerce them into adopting the full implementation of the Counties Act (with the corresponding county-wide levying of rates) – which they finally resolved to do in 1886.²⁶ One product of the reduced circumstances of road boards was the fighting over the scraps of dog registration fees with Maori communities.²⁷

By the mid-1890s Raglan County shared in the widespread local body frustration with existing rating provisions over Maori land. In 1898 the Premier was approached for change: ‘This council ... is of the opinion that the present system of levying and recovery of rates on Native lands is unfair, unjust and unworkable’.²⁸ The resolution was repeated in 1902, and on this occasion the Minister of Lands was

²³ Waipa County Council Rates book 1883/84, Waipa DC; Digital DB

²⁴ *Ibid.* By 1886, the Waipa County Council had received just £2 5 10 from the Colonial Treasurer on account of the rating of its Maori lands and the Mangapiko Road Board a further £2 11s. By 1890, no separate listing under ‘Natives’ was kept, and nor could individual Maori names be seen among the county’s 1391 assessments.

²⁵ *Ibid.*, pp 2-7

²⁶ Vennell, p 114

²⁷ See for example correspondence of Karioi Highways Board, 8 April 1881, KHB 1/1, Waikato DC; DB:2013

²⁸ Cited in Vennell, p 277

approached to have ‘idle’ Maori land within the county, from which the council received no revenue, ‘opened up’ for Pakeha settlement.²⁹

2.1.2 Rates collection in Raglan County, 1900-1918

By the turn of the century Raglan County Council had adopted a no-nonsense approach to recovering rates arrears: the prosecution of Pakeha defaulters which saw the public auction of eight Raglan sections in April 1902 was not an isolated incident.³⁰ By September 1907 the council had reportedly received most of the previous three years’ rates arrears owed by Pakeha, and had obtained judgements for the remainder – which were recovered by another forced auction of the affected sections in November 1907. By 1913 Ragland County Council had achieved a 100 per cent rates return from Pakeha ratepayers, and for the remainder of that decade this ‘solid lot’ was annually lauded for paying all of their rates before the due date.³¹

The reverse was true of the county’s Maori land-owning constituency. The council’s frustration with collecting rates from Maori land had been expressed to government in 1898 and 1902 and the 1904 Act did little to change the widespread default. In 1906 a concerted effort was made to use the legislation to effect collection. Nominated owners for all Maori land within the county were placed on the rating roll, the names having been supplied by the Valuation Department. Of the £1360 struck in rates on this land, a little over £3 was collected.³² In the face of this default, in March 1907 the county council took a test case to the Supreme Court, to enforce judgement for the sum of £82 against three such nominated owners of Te Akau 3A, of 11,587 acres. The judgment was given, but Native Minister Carroll subsequently refused to sanction the lease of the land to recoup the rates when it was discovered that two of the listed owners had been deceased for a number of years.³³ In its defence against subsequent criticism from both the Native Minister and the Chief Judge of the Native Land Court, the council maintained that the owners’ names emanated from the Native Department and that it had been unaware that two of the nominated owners had been deceased. Council claimed that the third, living nominated owner, Wiremu Hoete, had advised the council that the owners ‘had not the money to pay’, but supported the legal action and expressly instructed his solicitor not to file a defence.³⁴

²⁹ Ibid, p 278

³⁰ Newspaper clipping in Pirongia Road Board Minute Book, RCC4/1; DB:2025

³¹ See newspaper clippings dated 2 April 1913, 4 April 1914, 8 April 1915, 10 March 1916, in above; DB:2039-44

³² *NZ Herald*, 13 May 1909, in above; DB:2034

³³ Letter to editor, Raglan County Clerk, *Star*, nd, in above; DB:2037

³⁴ ‘Rating on Native Lands’, *Star*, 20 May 1909, in above; DB:2036

Another tack attempted by the council at this time was a direct approach to the Native Minister when it became aware in November 1906 of the government's intention to purchase 13,500 acres of the Te Akau No 2 block. Carroll was asked that the large amount of rates owing on the block be deducted from the purchase price and paid over to the county. The council was told to wait until the purchase had been completed, a statement Carroll later explained meant 'that they should wait until the land was subdivided and occupied by Europeans, when they would be able to collect the rate without any trouble.'³⁵ When the purchase money was paid over to the owners in June 1907, Carroll told the council that whether the rates arrears were deducted was up to the owners, who declined to do so.

At its monthly meeting in May 1907, a number of remits on the 'Native Rating' issue were endorsed by the council for the upcoming annual counties' conference, including:

No.1A: Where Native Lands have been partitioned the owners' names and occupiers names shall appear on the roll;

No.1B: Where Native lands have not been partitioned and the rates are unpaid, the District Native Land Registrar should be empowered to receive service of summons on behalf of the Native owners; and, in the case of an adverse verdict, the Native Minister SHALL (instead of may) pay the rates for which judgment have been given and enter up the amount as a lien on the land.

No.2: That all surplus Native lands shall be opened for settlement at once by the Government acquiring the land; but, where relative interests have not been defined the Government shall pay the purchase money into a trust account, dividing the money amongst the Native owners in the same proportion as their interests were in the land when the courts have decided what those interests are.

No.4: That facilities should be given to local bodies to collect rates from Europeans occupying Native land on any form of agreement or grazing right.³⁶

The remits reflect the shortcomings of the existing provisions from the local bodies' point of view: the uncertainty of the liable owners, the veto of the Native Minister, the costs of litigation, and the inability to enforce liability. No 4 addressed the emerging problems posed by the informal occupation of Maori land by defaulting Pakeha lessees.³⁷ More significantly, the remits demonstrate the close relationship between local government rating and settlement, or, in the language of the day, the 'Native Rating Problem' and the 'Native Land Question'. Under the prevailing system, the economic health of a local body depended

³⁵ 'Rating of Native Lands: Raglan County Council Troubles', newspaper clipping, nd, in above; DB:2028

³⁶ Raglan County Council minute book 1899-1907, 15 May 1907, RCC 1/2, p 390; DB:2068

³⁷ 'Non-ratable Native Lands: Crusade Against Mr. Occupier', *Herald* 13/7/1907, in Pirongia Road Board Minute Book, RCC4/1; DB:2028

on having as much of its district as possible carved up into individual rate-paying entities. Large areas of communally owned Maori land not returning a rate posed a threat to the economic viability of the local body. By the same token, the alienation of Maori land, as suggested by Carroll, would resolve the Native Rating Problem. At the same meeting where the above remits were endorsed, Raglan County Council also resolved to appeal to the Minister of Lands 'with regard to large areas of Native land in Te Akau and the inability of the council to enforce payment of rates on same under the present law and urging on the Minister the desirability of the Crown acquiring the whole of the Te Akau Native Land for closer settlement.'³⁸ In July 1907 Chairman B Hewitt and Councillor William Bankart raised these issues in person with the Premier in Wellington.

The close of the following rating year brought the same result. In addition to the loss in general rates, special rates and hospital rates which were written off as unrecoverable, the council bemoaned both the lost hospital subsidy that would have accrued had Maori land not been listed on the county rating roll, and the increased hospital levy the county had been liable for on account the inclusion. In the council's view, the legislation had proved unworkable: either the government should reimburse the council (as a charge against the land for example) or put the collection of rates from Maori land on the same basis as general land. In light of its ongoing inability to enforce payment under the existing law, in June 1908 the council resolved that Maori land would not be rated for the 1908/09 year, the value of such lands to be deducted from the rateable value of the county.³⁹

The following year the council decided to organise. In March 1909 the issues surrounding the Native Rating Act 1904 were circulated to other counties within the Auckland district, and in May Raglan County Council hosted a conference on the topic in Auckland.⁴⁰ Representatives from numerous local bodies in the Auckland district took part, including WH Mandeno of Waipa County, Jeremiah and John Ormsby of Waitomo County and J Shaw of Kawhia County. Several MPs were also present, including the Member for Franklin, also Leader of the Opposition and future Prime Minister, William Massey. Raglan County's experience was not an isolated case: Bay of Islands, Hokianga and Thames County representatives all spoke of similar circumstances, either advocating the 'speedy settlement of the native lands by Europeans', or the individualisation of title as the solution to the problem. 'If the natives would occupy their lands in the same way as Europeans – enjoying the same privileges and sharing the same responsibilities – the difficulty would be met,' Massey was reported as saying.⁴¹ The Ormsby brothers

³⁸ Raglan County Council minute book 1899-1907, 15 May 1907, RCC 1/2, p 383; DB:2066

³⁹ Raglan County Council Minute Book 1908-1913, 3 June 1908, p 48; DB:2071

⁴⁰ As reported in *Herald*, 13 May 1909, in Pirongia Road Board Minute Book, RCC4/1; DB:2034

⁴¹ *Ibid*

reminded the gathering of the disabilities Maori faced as a result of legislative restrictions in dealing with their lands, and the need to include Maori in the Advances to Settlers scheme. Extending finance and removing restrictions to capable Maori landowners, they argued, would meet the difficulty. John Ormsby was part of the smaller committee which drafted the recommendation at the end of the conference, that:

This conference of county councils ... begs to draw the attention of the Government to the defective machinery ... appertaining to the enforcement of rates due on rateable native lands, and to the repeated refusal of the Native Minister to administer the Act in accordance with the evident intention of Parliament. As these are matters of extreme importance to the Dominion as a whole, the conference strongly urges on the Government the necessity of an amendment of the law to provide a remedy that will ensure the payment to local bodies of all rates due on native lands.⁴²

The connection between rating and settlement was once again highlighted by the editorial in the *Waikato Times* on the conference:

... the unlocking of the native lands is imperative to the progress of these districts, and the praiseworthy determination of the conference to not only have the question amicably settled, but also to have those lands not required by the natives for their own use speedily placed at the disposal of European settlers, deserves every commendation and assistance.⁴³

Maori land remained off the Raglan County rating roll from 1908 to March 1914. Rather than pursue the collection of rates from Maori land in this period, Raglan County Council seemed content with the fruits of increased Crown purchase and settlement:

Now that the Crown are acquiring and opening up for settlement large areas of native land, such as the Te Akau, Moerangi and other blocks, the next few years will show greater progress. Not only is the land being opened of good quality and eagerly taken up, but the acquirement of native land by the Crown is the easiest and most suitable remedy for settling the much-debated question of native rating, so that not only does the Dominion benefit from increased production, but the ratepayer of the local body obtain an increased and lasting revenue, as once native land gets into European occupation, the latter never shirks his responsibility as a ratepayer, and further, he is only too eager to form special rating areas for the immediate metalling of his roads.⁴⁴

⁴² Ibid

⁴³ *Waikato Times*, 15 May 1909, in above; DB:2035

⁴⁴ 'The Raglan County', *Herald*, 2 July 1912, in above; DB:2038

In the four years from 1908, rates receipts from European land had increased by almost 50 per cent and an additional £28,000 had been raised in 15 special loans for the metalling of county roads. By April 1913, as Carroll had predicted, the county was promoting Te Akau as an exemplar of 'the manner in which European settlement is solving the difficulty of obtaining rates from the communistic lands of the Maoris.'⁴⁵ Although these reports referred to the wider 'Te Akau' block, it was Te Akau D, a southern area of 17,656 acres defined in 1906 that became the target for subsequent Crown purchase.⁴⁶ The further 1908 partition of this block two years later was at least partly motivated to define the interests which had been purchased by the Crown. Following this alienation from Maori hands, the rates collection was said to have risen from some £18 to over £500 in just two years. 'For both the development of the Dominion as a whole and also for local interests', the *Argus* read, 'it is to be hoped that the Government continues with a vigorous policy in regard to the purchase of native lands, as such policy will quickly settle the native rating difficulty, and add considerably to the general revenue of the Dominion.'⁴⁷ Rising land values and increasing Pakeha settlement in Raglan County over the boom years predating the First World War continued to see total county receipts rise four-fold from £11,000 in 1908 to a spectacular £41,000 in April 1915.

As a result of the 1913 Amendment enabling a lien to be lodged against the title of the land for unpaid rates, Maori lands were reinstated on the Raglan County rating roll for the 1913/14 year. Of the £1186 levied £87 was received, most of this, it was said, being paid by Pakeha negotiating for the lease or purchase of some blocks. From 1914 the council began to prosecute for the registration of the unpaid rates against the affected lands, although in the face of spiralling legal costs the annual prosecution was pared down to a triennial affair. By April 1916 the three years of outstanding rates from Maori land had mounted to £3,179 which the council promised, 'in all cases ... will be loaded with the rates which have accumulated to March 31, 1916.'⁴⁸

In November 1915, Native Minister Herries took exception to the council's public criticism that despite its best efforts to have Maori land thrown open for settlement and to collect rates 'Maori legislation and the Native Minister were too strong for them.' On the contrary, the Native Minister retorted:

I should be glad if you could give me any instances when I have blocked settlement of Maori Land as I am quite unaware of having done so. I have endeavoured to purchase any block to which my attention has been called and I have purchased

⁴⁵ 'No Rates from Native Lands: Settlement the Solution', *Herald*, 4 April 1913, in above; DB:2039

⁴⁶ See Paula Berghan, 'Block Research Narratives', (CFRT, 2009) pp 96-97

⁴⁷ 'Raglan County', *Argus*, 2 April 1913, in above; DB:2039

⁴⁸ 'Rating on Native Lands: Raglan County Position', *NZ Herald*, 4 April 1916, in above; DB:2044

lately nearly all the Te Papa block nor I think can it be justly said that the tendency of the legislation since 1909 has been to retard settlement.⁴⁹

He was informed by return telegraph that the clerk had been misquoted, ‘what I did say was that the settlement of native land was the best remedy for enforcing payment of Rates by natives & instanced Te akau’.⁵⁰ Each April for the next four years, the same story was reported in the press: Maori did not pay rates and the liens taken against their land promised no immediate benefit. ‘The only redeeming feature’ it was reported, ‘is that each year a certain amount of native land is passing into European occupation, which process is probably slow, but still provides the best remedy for this native rating question, as not only does the local body obtain its rates but a larger area of land is made productive.’⁵¹

Despite its considerably improved financial circumstances, one corollary of non-collection was a continuing reluctance on the part of council to take responsibility for road maintenance through Maori land. This is discussed more fully in Chapter 9. The list of road works prepared in March 1910 to be undertaken by the Public Works Department, as opposed to the county council, included the maintenance of the Waingaro-Te Uku route, ‘as for the bulk of the way it runs thro’ Native land from which the Co[unty] derives no rates & consequently have no money to expend in maintenance and general repairs.’⁵²

2.2 Te Rohe Potae, 1876-1915

Despite its deprecating tone, a newspaper article contributed by ‘Te Puhi’ in 1906 provides an interesting preface to local government functions within Te Rohe Potae.⁵³ According to this source, the first public works in the district began in the 1870s with Tawhiao’s Vogel-inspired ambition to have a main road through Te Rohe Potae from Kawhia to Taumarunui, suitable for wheeled traffic. This ‘good well-graded road’ was begun at both ends, running from Kawhia to Tirohanga Kawhia; and from Taumarunui to Waimiha – some 30 miles – with all the creeks, except the Taringamutu and Ongarue, crossed with substantial bridges. The road was never completed as envisaged, but used nonetheless, not least by the surveyors laying out the trial line for the Main Trunk Railway. The article also spoke of an early road made by JT Hetet to enable his wagon to ply the way between the Puniu River and his home at Maraehine and on to Otorohanga.

⁴⁹ Native Minister to Clerk, Raglan County Council, 4 November 1915, MA 31 4*4 special file 138; DB:837-838

⁵⁰ Marsland to WH Herries, in above; DB:840

⁵¹ ‘Rating on Native Lands: Raglan County Position’, *NZ Herald*, 4 April 1916, in above; DB:2044

⁵² Assistant road engineer to Resident Road Engineer, Public Works, 24 March 1910, BBAD 1054 2412a 15/12 part 1, ArchivesNZ Auck; DB:1501-1503

⁵³ *King Country Chronicle*, 2 November 1906; DB:2713-16

Rating was one of the key issues in the negotiations with the Crown in the mid-1880s regarding the ‘opening’ of the territory to Pakeha settlement. Preoccupied initially with avoiding the negative impacts associated with title determination by the Native Land Court, in their combined petition of 1883 Maniapoto, Raukawa, Tuwharetoa, Whanganui and Hikairo nonetheless referred to the Government’s attempt to open up the rohe by the making of roads and railway and surveys, ‘before we have made satisfactory arrangements for the future.’ Their petition went on:

We wish to state that, if the above-mentioned practices are to be carried on in future, *we think that it would not be right that our land should be rendered liable* to such an objectionable system.

What possible benefit would we derive from roads, railways, and Land Courts if they became the means of depriving us of our land? We can live as we are situated at present, without roads, railways, or Courts, but we could not live without our lands.⁵⁴ [author’s emphasis]

Subsequent negotiations in 1883 were likewise focussed primarily on the issue of title determination, the external boundary survey of the territory, and agreement to the Main Trunk Line.⁵⁵ Yet rating again appears to have been the substance of an appeal by Te Wherowhero, Patara, Topia and Ropia the following year when this deputation travelled to England to seek an audience with the Queen. Some forty years later, tribal representatives cited Member of Parliament John Gorst’s statements to the Secretary for the Colonies on this occasion:

The time had now come when the Colonial Government in interest no doubt of settlers were anxious to make roads and railways through this territory (Rohe Potae) to open it up to modern civilization and the Chiefs now come not because they were opposed to the progress of civilization but because they feared the rights which were secured to them by the Treaty of Waitangi might be then brought into Jeopardy.⁵⁶ [emphasis in original]

By February 1885 rating was regarded by tribal representatives as second only to the Native Land Court’s jurisdiction to determine title in the region. At a representative meeting with Native Minister Ballance at

⁵⁴ Petition of the Maniapoto, Raukawa, Tuwharetoa and Whanganui Tribes 1883, appendix 6 of Waitangi Tribunal, *Pouakani Report 1993* online at <http://www.waitangi-tribunal.govt.nz>. Note Ngati Hikairo added their support to the petition in late 1883, C Marr, ‘The Alienation of Maori Land in the Rohe Potae (Aotea Block), 1840-1920’, Waitangi Tribunal Rangahaua Whanui Series, 1996, p 22

⁵⁵ Marr, pp 26-31

⁵⁶ ‘Memorial to the Hon JG Coates. Prime Minister and Minister for Native Affairs’, 22 August 1927, MA 31 4*4; DB:901a

Kihikihi in February 1885, rating was attributed by John Ormsby, the principal speaker for those present, as the cause of ongoing ‘estrangement’ between Maori and Pakeha in the region. Describing roads as the scorpion, and rates as the sting, Ormsby was careful to point out that their objection was to rating, not the roads per se, and he seemed well versed in its application:

Now, with regard to the roads. It has been stated that, as soon as ever a road is formed, then a Road Board is also formed – that is, the Rating Act is enforced. The Act gives the Government power to proclaim within the Rating Act any land, although it may not have passed through the Native Land Court; and our lands, although we might not have used them for twenty years, still the rates would go on accumulating, and whenever we use them, the accumulation of rates would be demanded from us.⁵⁷

In response, Ballance drew attention to the value roads and railway brought to the lands they passed through, and then continued:

I object to this Rating Act as much as Mr. Ormsby or any other Native present. I think it is unfair to rate land that is not in the condition of being used. The government have the power of proclaiming Native lands subject to the Rating Act, and of course they may abstain from proclaiming land under the Act. I do not think any of this land along the line of the railway, or along the roads leading up to the railway, should be proclaimed under the Act. When the land has been leased or sold, then the time will have come for putting on rates; and I infer that no Native will object to pay rates when the land has been leased and is being cultivated, for the rates are put on for the benefit of the roads, and roads cannot be made without them. It should be borne in mind that the money is not lost. It goes into the roads, and the roads give a value to the land. But, as I have said, that only applies in my opinion to land which has been sold, leased, or is in actual cultivation, and therefore there is no danger to be apprehended that the land referred to will be brought under the Rating Act.⁵⁸

Ormsby rose again quickly, to make quite sure of what was being promised:

Mr Ballance has said that his own opinion is that the Rating Act should not be enforced upon this land; not until such time as something has been done in the way of disposing of the land. Now, as far as I am personally concerned, I am fully with Mr Ballance on that point; but I would like it to be put in this way: not that we should be told that the Act will be left in abeyance, but that it will not be put over such land. If it is possible for him to sign a document satisfying us all that the Act shall not be put in force over our lands, it will be well; but we do not want that; we just believe what he says, but we bear in mind the compact that was entered into between Mr. Bryce and

⁵⁷ ‘Notes of a meeting between the Hon. Mr. Balance and the Natives at the Public Hall at Kihikihi on the 4th February 1885’, AJHR 1885 G-1, p 14

⁵⁸ Ibid, p 17

ourselves regarding the railway-line. A new king has arisen in Egypt, who knows not Joseph.⁵⁹

To which the meeting received the following assurance from Ballance:

Mr. Ormsby has asked me to tell him at once that the Crown and Native Lands Rating Act should not be put over the lands – that is to say, for the railway, and for the roads which lead to the railway – made for the use of the railway. I think that is a very proper request, and if Mr Ormsby will address to me a letter upon the point I will send to him an official reply, which will be recorded in the department, which will be kept on record for future reference, and will be binding on future Governments. With regard to what I have said to-day, it is being taken down here word by word in shorthand, and will be published.⁶⁰

There is a degree of ambiguity in the recorded statements of this interchange. Ormsby's reaction suggests that an important concession had been won, the result of the Native Minister's assurance that rating would only be applied in future to 'land which has been sold, leased, or is in actual cultivation'. It is clear that Ballance's pronouncements were taken by the assembly to mean that future road and railway development would not come with the sting of rates attached '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'.⁶¹ It is not known if this letter was ever written: certainly it has not been found. But it is less than certain that the Native Minister intended his pledges to be so sweeping: in both speeches the rating exemption was qualified to apply to lands 'for the railway, and for the roads which lead to the railway – made for the use of the railway', which in the context of the times meant the main roads funded by government rather than subsidiary local or county roads that would follow settlement. And again, the expectation that Maori would pay rates on future developed land, and that leased or sold land would similarly be liable, was made explicit. However nor did the Native Minister dispel the notion his words had created.

Ballance created other notions with his promises that day. He painted a picture of settlement in which Maori of Te Rohe Potae would share in the prosperity that was to come with the railway. He promised market value for lands, employment on railway construction, and committee control of land affairs. The extent to which tangata whenua were promised a share in the future prosperity will no doubt be addressed in the Political Engagement report. Premier Stout reiterated just such a vision in his address at the sod-turning celebration two months later, speaking of the benefits to Maori that the railway would bring:

⁵⁹ Ibid, p 19

⁶⁰ Ibid

⁶¹ Ibid, p 20

It will make your lands more valuable, and the land that you don't need you will get more money for when you lease it. 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. The Maoris can't get on without money any more than Europeans. I hope they will spend the money in making themselves more comfortable. If they take care of their money and their health the land will not be a curse to them.⁶²

Forty years on, Ngati Maniapoto leaders referred to specific reassurances made by the Premier on this occasion regarding the rating of their land, but no records of such statements have been found.⁶³ Government railway and road construction proceeded apace in Te Rohe Potae throughout the 1890s, and it was not financed from rates off Maori land. Could Ballance be said to have kept his word? The Crown's purchase of land in the region also proceeded apace during this decade and contrary to the promises of 1885, this was not accomplished through owner committees, nor at market value. According to the Land Alienation Project, by 1904 the Crown had purchased 634,188 acres – 37.86 per cent of the region.⁶⁴ The Stout-Ngata Land Commission reported in 1907 that in doing so, the Crown had paid a nominal average price of 4 shillings per acre.⁶⁵ The counties of Kawhia and Waitomo were gazetted at this time: in one of those quirks of history the first reading of the Waitomo County Bill coincided with that of the Native Rating Bill in 1904, although the irony of this seems to have gone unremarked in Parliament. Under the Act, all Maori freehold land in the new counties was liable for rates. In August 1905 Hone Heke MP presented a petition by Te Wherowhero and 262 others praying for the repeal of the Native Rating Act 1904. The petition was referred to the Native Affairs Committee which declined to make a recommendation on the grounds that it was a question of policy.⁶⁶ The scorpion had been set loose.

2.2.1 Towards local government

Early European settlement within Te Rohe Potae was orchestrated by the Crown under the Improved Farm Settlement Scheme with newly acquired blocks, for the most part well east of the railway, cut up and balloted to settlers from about 1895. Some of the earliest Crown settlements were Mahoenui, Mairoa, Waitanguru, Ngapaenga, Marokopa, Te Anga, Honikiwa and Te Rauamo⁶⁷, the new tenants of which invariably organised themselves into 'settler associations'. Early roads to these settlements, such as they

⁶² 'The North Island Trunk Railway: Turning the First Sod', *Waikato Times*, 16 April 1885, p 2

⁶³ In the memorial presented to Prime Minister Coates in 1927 Premier Stout was said to have reiterated the promises made by Ballance two months before.

⁶⁴ Douglas, Tutahanga, Craig Innes and James Mitchell, 'Te Rohe Potae Land Alienation Project', draft report, (Waitangi Tribunal, May 2010), p 60

⁶⁵ R Stout, AT Ngata, 'Native Lands in the Rohe-Potae (King Country) District', AJHR 1907, G-1b, p 4

⁶⁶ The petition was summarised in AJHR, the petition itself has not been located.

⁶⁷ May Bass, 'The Northwest King Country: a history of the land and its people', (Hamilton, Department of Conservation, 1993), pp 53-56

were, were constructed by the Works Department. In the five years from 1901, the Pakeha population in the district more than doubled from 1110 to 2303, with every indication of further expansion.⁶⁸

The impetus towards county status in the Kawhia district received a boost from the visit of Seddon in May 1903. County government was one of four issues on the local committee's agenda with the Premier, alongside the potential of Kawhia harbour, the settlement of land and the formation of a road linking Kawhia with the rest of the colony. In response to aggrieved Crown tenants in Marokopa, Te Awaroa and Te Rauamoia struggling since 1895 without the promised government access, Seddon assured the gathering: 'I will deal liberally with you'. And as the 'toasting' took effect, the premier's promises became more profuse: 'You will be one of the best off people in the colony, with the advantages you have you will in a few years be independent'.⁶⁹ Meeting with tangata whenua at Maketu the following day, the Premier listened to complaints about the delay in having the native township lands settled on both sides of the harbour, and road access formed through the Taharoa block. This assembly too, was reassured with the platitude that placing land under the Maniapoto Land Council would solve the issue of roads.⁷⁰

The lobby for local government was largely driven by the need for better roads. At a public meeting in Kawhia in July 1903 it was argued that the whole of the thirds from Crown settlement – that portion of rent from Crown tenants returned by the commissioner of Crown lands for the upkeep of roads – was merely keeping bad tracks open. County status would bring with it power to borrow, with the thirds put instead towards the repayment of a loan as would make the roads good at once. The meeting was unanimous in its resolve to make Kawhia County operative. The editorial of the local newspaper described local government as the 'open sesame' to progress and development:

Local govt contains the sole hope of developing a new county where rule by the majority prevails. It is absurd to say the new districts cannot be aided in development because money is scarce, it is not for that reason at all. The country districts are neglected because the public money, let it be much or little, must be spent within view of the masses of the population because they provide the money and they make a Government's existence possible. It would require a much higher standard of intelligence in the mass of electors of the colony to permit the expenditure of public money to be made anywhere beyond their ken which is quite close within their reach. As the intelligence of the masses improves and extends by the use of the franchise and by observing the effects of public policy so will the prospect of developing the county improve. As the conditions exist at the present

⁶⁸ Walghan Partners, 'Selected Demographic Data for Rohe Potae, 1874-1926', 1st Draft Edition, (Waitangi Tribunal, 2010), p 18

⁶⁹ *Kawhia Settler*, 30 May 1903; DB:2673-76

⁷⁰ *Kawhia Settler*, 6 June 1903; not in DB

time it is from the machinery of local government that the settlement and improvement of new districts must come. The bringing into operation of the Counties Act for Kawhia is the very first step in progress which could happen for this district. Without local power no hope of progress could be entertained. Without a numerous population there can be no voting power, and such a population can only exist in districts where progressive modern conveniences exist. It is this which has caused the dead lock which has for 40 years kept the King country in its state of primitive wilderness. The open sesame is local power conferred upon the pioneers by the Counties Act.⁷¹

After almost 30 years as an inoperative county, the original 1876 county district was split in two and brought under the Counties Act 1886 by virtue of the Kawhia and Awakino Counties Act 1903. The boundaries were further reduced by the creation of a new inland neighbour under the Waitomo County Act 1904. Kawhia County was finally gazetted in June 1905, and Waitomo County the following month.⁷² West Taupo County remained inoperative until 1921, when it was carved up and consumed by neighbouring districts. Awakino County remained inoperative until 1913 and ran for the next eight years before it too was amalgamated back into Waitomo County.

The pressure local government placed on Maori land tenure was profound. Within five miles of any road Maori freehold land was now liable for full and special rates. Outside this band, all Maori freehold land was liable for half rates. When Native Minister Carroll visited Kawhia in March 1905 on the eve of county status, he reassured the Vigilance Committee that once the 'big task' of preparing the valuation rolls was undertaken, 'The Maoris would all be on the roll, and would have to pay rates, and would then become a powerful factor in the constitution of councils'.⁷³

The impact of local government however, also extended to customary lands for which title had not yet been determined, on the basis that the requirements of settlement demanded as wide a rating base as possible. On the same occasion Carroll also spoke of the need to 'open up' the Moerangi block, by force if need be:

they would have to bring about a dissolution of power which was responsible for it being locked up. It would then be put through the Land Court, and if the owners were reluctant to sell they would compel them to do so. The country could not

⁷¹ Editorial, *Kawhia Settler*, 28 November 1903; not in DB

⁷² *New Zealand Gazette* 1905, pp 1425, 1461, 1783, 1892

⁷³ *Kawhia Settler*, 10 March 1905; DB:2680

allow land to remain in a virgin state any longer, and everything demanded that Moerangi should be cut up.⁷⁴

It is worthwhile pausing here to consider the enormity of the government's actions in establishing local government in Kawhia and Waitomo Counties in 1905. In one fell blow, lands which had been through the court process but were otherwise in their natural state were now liable to an annually recurring local tax. The tax was designed to be paid from produce made from the utilisation of land, labour, capital and farming know-how. Even had they wanted to, tangata whenua faced serious barriers to turn their estates into 'profitable' economic entities which would enable them to meet the new liability.

With regard to freehold land, Carroll's expectations were temporarily thwarted by the action of Moe Omipi, represented by John Ormsby, objecting to the valuation of her land. In the Assessment Court in June 1905 Ormsby successfully argued that because the land was subject to restrictions on alienation under Section 117 of the Native Land Court Act 1894 – prohibiting the owner from selling, leasing or otherwise dealing with it – the value of the land, the sum which she might be expected to realise for her estate if the property was offered for sale, was nil. It was a test case with implications for all Maori land in Te Rohe Potae, pending an appeal to the Supreme Court. Maori objection to the valuations, it was reported, was not 'just to avoid paying rates, but simply to get the right to have free trade with their own lands.'⁷⁵ Kawhia County was instructed by the Valuation Department in October 1905 that all such restricted Maori land should not be entered on the land valuation roll.⁷⁶ Maori lands were similarly excluded from the Waitomo County Council valuation rolls for the same reason. In February 1906 the council requested that an Assessment Court sit as soon as possible to fix a value on the Maori lands within the county, on the basis that the restrictions on alienation had been removed by the Maori Land Settlement Act 1905. The council was informed by the Valuer General in April however that the recent legislation had no bearing on the issue of the application of the Government Valuation Act to Maori lands. He promised to take the matter up with the government at an early opportunity.⁷⁷

The legislation restricting Maori in Te Rohe Potae from dealing with their lands is set out in the interim report of Robert Stout and Apirana Ngata's 1907 survey of Maori lands for the purposes of settlement.⁷⁸

⁷⁴ Ibid

⁷⁵ *Kawhia Settler*, 16 June 1905; DB:2682-83

⁷⁶ Reported in *Kawhia Settler*, 26 February 1906; not in DB

⁷⁷ Waitomo County Council minutes book, February 1906, p 30; 23 April 1906, p 34, Waitomo DC; Digital DB

⁷⁸ Legislation included the Native Land Alienation Restriction Act 1884; North Island Main Trunk Railway Loan Application Act Amendment Act 1889; Native Land Purchases Act 1892; Native Land Court Act 1894; Maori Lands Administration Act 1900, cited in 'Native Lands in the Rohe-Potae (King-Country) District', AJHR 1907 G-1B

It was identified by the commissioners, together with the related issues arising from Crown pre-emption and the virtual lack of development, as a significant factor in the larger debate over settlement. The Valuer General's appeal of the Assessment Court ruling was heard by the Supreme Court in December 1907.⁷⁹ Judge Denniston steered a middle course between the two parties. The court considered that the proper standard to be used in valuing land under such restrictions to be the sum a purchaser would give for being placed, in respect of it, in exactly the same position as the owner. The object of the Act, Denniston argued, was to assess for the purpose of fixing the extent, for an annual imposition, of the value of the land to the owner for the time being. Arriving at an assessment of an interest 'which does not permit of obtaining an income by way of rental, which does not permit of raising money for improvements, and the enjoyment of which is otherwise hampered' would be difficult, but the Crown's purchase price was suggested as a basis for consideration. The matter was referred back to the Assessment Court. In the event, the legal action was overtaken by the removal of restrictions on alienation under the Native Land Act 1909. This set up a series of new requirements, in a process overseen by the Maori Land Board. In the case of Waitomo County, it was not until the 1911/12 rating year that Maori assessments were placed back on the rating roll.⁸⁰

2.2.2 *Who is to pay?*

To the very large extent, the issues regarding the rating of Maori land in this early period became subsumed in the wider and much more consuming debate over the 'settlement' of 'surplus' Maori land. Despite having at least a fifteen-year head start on private enterprise, with a pre-emptive monopoly over land purchase which ensured 'the best possible bargain for the State' at an average purchase price of four shillings per acre; the government had arguably botched the settlement of Te Rohe Potae, in terms of both Maori and Pakeha interests.⁸¹ The persistent complaint in the district was the poor provision for roads. By 1906 the fact that there was not a single through road completed in the 14 years since the first settlement of Crown lands was publicly regaled as a 'pitiable exhibition of mismanagement, and the antiquated notions of the central authority as to exploiting a very valuable outlying district.'⁸² When the Crown lands were surveyed and thrown open for settlement, roads were laid off and shown on the sale plans. A loading of up to four shillings per acre was purportedly added to the sale price for the land for the purpose of making these roads, and one third of the value or rental of the lands disposed of was allocated for road maintenance. The expectation of early Crown settlers then, was that access had been

⁷⁹ *Valuer General v Ormsby*, NZLR Supreme Court, Vol XXVII, pp 44-49

⁸⁰ See acting clerk, Waitomo County Council to Native Minister, 14 March 1911, MA 1 1049 1911/184; Digital DB: ArchivesNZ Wgtn/MA 1 files MA1 1911-184

⁸¹ 'Native Lands in the Rohe-Potae (King Country) District', AJHR 1907 G-1B, p 4

⁸² *King Country Chronicle*, 14 December 1906; DB:

thrown in as part of the deal. The reality was markedly different. As the chairman of the Waitomo County Council complained 18 months into the job, ‘the unfortunate settlers have not one road which is even safe to ride over in winter, not to speak of taking a wheeled vehicle along, and in very many cases the settlers have themselves, been obliged to cut tracks through the forest, before they could carry or pack in a bag of flour’.⁸³ Public agitation over poor access peaked in the winter of 1907 with claims that Pakeha settlers in Kawhia County were on the point of starvation, mired on their Crown leaseholds by the mud of their impassable clay roads.

Complaints to the new-formed local bodies from disgruntled settlers had not been long in coming. A deputation of Mangamutu settlers for example showed up at Waitomo County Council’s third monthly meeting to find out how their four years’ worth of thirds had been expended: ‘Up to the present no roads of any kind had been made to give them proper access to their holdings’.⁸⁴ The council promised to make inquiries. A similar request from settlers at Orahiri was made the following month. It had been anticipated that the thirds could be used as security for loans for road improvements and at the November 1905 meeting the chairman Major Lusk suggested that rather than spend them in ‘drips and drabs’, the council should endeavour to borrow as much as possible, ‘the spending of which should be from centres to be decided upon and work from thence outwards’. The fallback position after ‘considerable discussion ... upon which the Council was very much divided,’ was to leave the expenditure accruing from each riding in the meantime to the Riding member to devote to repairs and maintenance work.⁸⁵ Apart from its discretion to decide how the thirds should be spent, the council’s income was meagre. In its first year of operation, Waitomo County Council received only £192 8s 2d in general rates, £50 8s 3d in land revenue and a rates subsidy of £108 1s 11d.⁸⁶ Adding to the complexity of county dynamics were the innate competing interests between the sources of revenue. Crown tenants were exempt from general rates and reluctant to take on special loans over and above the security of their thirds payments. County ratepayers were as equally reluctant to shoulder more of the burden through increased general rates levies. Waitomo County councillors successfully staved off efforts to increase the county’s very low general rate for most of the first five years of operation. Both thirds and general rates however, were tailored for road maintenance rather than new works. As Councillor Babbage ruminated glumly during Kawhia County Council’s inaugural deliberation between a 1d or $\frac{3}{4}$ d rate, ‘We cannot make roads with the rates’.⁸⁷ By August 1906 Waitomo County Council had identified 26 ‘Most Pressing Works’ in the county, an

⁸³ DH Lusk to editor, *King Country Chronicle*, 14 December 1906: DB:2722-23

⁸⁴ Waitomo County Council minute book, 16 October 1905, p 11; Digital DB

⁸⁵ Waitomo County Council minute book, November 1905, in above, p 14; Digital DB

⁸⁶ Waitomo County Council minute book, 15 October 1906, p 52; Digital DB

⁸⁷ Reported in *Kawhia Settler*, 7 July 1905; not in DB

expensive wishlist of formation, widening, general repairs and metalling.⁸⁸ In addition to meeting the demands from would-be farmers, less than six months into the job had come the first alarming indication that the government expected the county to take over the government roads through the district. By November 1906 the continued delay of the Minister of Public Works to affirm which roads were main roads, and therefore the responsibility of the government, provoked an outburst from the chairman: 'He felt so strongly on the matter that until this question was decided the Council was powerless to perform the functions for which it was intended. If they failed again to get satisfaction, the Council should by way of protest resign as a Body'.⁸⁹

For its part, the government was seeking to divest itself of the drain of local development in the burgeoning frontier as quickly as possible. The whole point of local government was to pass on the cost of the business of settlement to the settlers themselves, through rating. Contrary to settler perceptions of government neglect, keeping the existing road network unrolling – however slowly – through Te Rohe Potae was costing the government a significant annual injection. The local road votes for King Country roads in October 1906 for example amounted to £24,375.⁹⁰ The problem for the newcomers was that settlement was so haphazardly dispersed, that this sum was divided into 112 different road projects throughout the vast terrain, making the average grant – with some notable exceptions – barely enough to clear the slips of the previous rains. The total estimates for 1906 were said to be £42,169 and for 1907 £52,638.⁹¹ As the *King Country Chronicle* editor reflected on the meeting between King Country local government and the Minister of Public Works in May 1907:

the idea that the most remote settler shall have a road or track formed to his section before engaging in any more expenditure on roads already formed is highly commendable in theory. ... Better by far would it have been to have delayed the opening of some of the more remote blocks, and devote more money to making better roads to lands already opened. Better still would it have been to have evolved a workable scheme of throwing open the large areas of native land, and allow settlement to grow out from the railway centres, instead of planting settlers in isolated blocks, miles away from a centre of any sort.⁹²

Waitomo County Council was informed in January 1907 that all roads within the county were in fact county roads, with the county council responsible both for construction and maintenance. The fact that the

⁸⁸ Waitomo County Council minute book, 13 August 1906, p 44; Digital DB

⁸⁹ *Ibid*, 19 November 1906, p 59; Digital DB

⁹⁰ *King Country Chronicle*, 26 October 1906; DB:2709-10

⁹¹ *King Country Chronicle*, 15 November 1907; DB:2779-82

⁹² *King Country Chronicle*, 10 May 1907; DB:2746-47

government was currently constructing roads and might, from time to time vote money for the purpose, was in no way to relieve the local authority of its responsibility.⁹³

If settlers had been sold short by the government, then so too had Maori. Forced into accepting rock-bottom Crown prices for their land on the strength of future benefits to be derived from settlement, by 1906 allegations were rife that the failure to improve road access to the Pakeha enclaves on Crown lands was a deliberate ploy to keep Maori land values down, with the government's eye on future purchase. The visit of the commissioner of Crown lands and Auckland Land Board to Te Rohe Potae in late February 1906 for example provoked a caustic editorial in the *Kawhia Settler*:

We ask for roads and are told that at present it is not judicious to make roads through native lands, that it is not fair to the ratepayers to spend their money on work that will improve the land of those who do not pay rates, and if reasons are shown why this excuse is untenable, then it is hinted that these lands must not be interfered with and increased in value just at present, because the Government have views etc etc'.⁹⁴

The allegation was repeated by Kawhia County Councillor H Babbage, a Crown lessee at Awaroa, in October 1907. Babbage claimed that Seddon had been present at the ballot of his land in 1900 and had promised a road within two years. 'After seven and a half years we have ten miles of six-foot track and one creek not bridged yet, and for six months of the year it is almost impassable for mud':

The first three miles of our road through native land this we have to maintain out of rates, as the natives pay none, and the Government will not form more than a six ft track through native land, as it would enhance the value of the land when it wants to buy it. Why were we not told this when the land was opened, or why does not the government buy the land and form the roads?⁹⁵

Babbage spoke of a poll recently carried by Awaroa settlers to raise a loan to metal the road, but such action would be pointless unless it was first widened, an improvement beyond their means. 'Our land' Babbage claimed, 'is loaded with three shillings an acre for roading amounting to about £1500, but this money has not been expended on our road.'⁹⁶ The government's reluctance to construct works that would enhance the value of Maori land was also said to be the reason why the proposed branch line connecting Kawhia by rail to the Main Trunk Line was not proceeded with in 1907.⁹⁷

⁹³ Cited in *King Country Chronicle*, 25 January 1907; DB:2732

⁹⁴ *Kawhia Settler*, 2 March 1906; not in DB

⁹⁵ *Kawhia Settler*, 15 November 1907; DB:2701

⁹⁶ Ibid

⁹⁷ The allegation was made by Arthur Ormsby, *King Country Chronicle*, 7 June 1907; DB:2752-54

Having initially balked at contributing any further to local development, the inevitability of financing the required works locally was increasingly dealt with through the mechanism of special loans. Setting an early precedent in August 1906, a majority of Mairoa settlers sanctioned a special loan of £7000 to improve and metal the road from Oparure westward through the Mairoa Riding. This initiative was copied by Aria settlers in March 1908 and Waitomo and Hauturu settlers three months later. Others followed. These special loans met the needs of communities of interest in very defined areas. The security for the loan was a special rate on properties identified to benefit from the works, and the locally raised funds generally attracted a pound for pound subsidy from the government. Government attempts to ‘hand over’ main roads to the county – such as the Te Kuiti-Awakino, Pirongia-Kawhia or the Otorohanga-Kihikihi Road – even when accompanied by significant financial incentives, continued to be resisted by the Waitomo County Council as late as 1910, as an ‘impossibility for council has no funds’.⁹⁸

2.2.3 *The ‘Native Land Question’*

The solution increasingly came to be seen as closer and quicker settlement, with Pakeha eyes turning to the remaining tracts of Maori land. To an extent this was part of a national phenomenon, with the Liberal government’s appointment of the Stout-Ngata Commission in 1906 to identify areas of ‘unutilised’ Maori land for general settlement, and then, before the commission had fully reported, under the Native Land Settlement Act 1907, to have such areas compulsorily vested in a streamlined Maori Land Board for alienation. But it was felt most keenly within Te Rohe Potae, where the newly incumbent settlers increasingly argued that under existing conditions, ‘Maori-owned land is cramping industry and enterprise, both public and private, and staying progress in every direction.’⁹⁹ As the commissioners themselves stated to the owners of the Wharepuhunga block, ‘... the settlement of the country cannot be delayed by either Maori or European, and if the Ngati-Raukawas will not utilise their land other people must be found who will utilise it.’¹⁰⁰ In March 1906 Kawhia County Council resolved: ‘That the Government be urged to deal with the following blocks of native land as soon as possible, as the fact that these lands are unoccupied proves very detrimental to the progress of the district, the greater portion of the blocks being of good quality and very adapted for dairying, viz., the Matakowhai, Taumatatotoro and Mahoe’.¹⁰¹ By March 1908 Kawhia was held up as ‘an object lesson’ on the pitfalls of ‘unutilised’ Maori land:

⁹⁸ See for example Waitomo County Council minute book 2, 17 January 1910, p 19, Waitomo DC; Digital DB

⁹⁹ *King Country Chronicle*, 11 January 1907; DB:2724

¹⁰⁰ ‘Native Lands in the Rohe-Potae (King Country) District’, AJHR 1907, G-1b, p 6

¹⁰¹ *Kawhia Settler*, 22 March 1906; DB:2689

A few years ago Kawhia was talked about as a place that was going to grow beyond the wildest dreams of the land speculator. Its fertile back country was to be covered with crops, herds, and flocks, and punctured with trains. Its harbour was to be crowded with shipping, its streets humming with trade, its hillsides brightened with the villas of merchant princes, but to-day Kawhia remains pretty much as it was before it was boomed at all. True there has been some progress, but the mountains of tall talk have brought forth but a very little mouse of actual achievement, or to exchange the classic for the American metaphor, the hot air that was so freely generated has raised Kawhia to no commanding height of prosperity. Native land ownership is usually assigned as the cause of this disappointment.¹⁰²

For Pakeha, the ‘Great Question’ about ‘Native Lands in the Rohe Potae’ was not about whether to obtain the remaining areas of ‘unused’ Maori land, but how best to go about it.¹⁰³ Local MP and member of the Kawhia Town Board, WW McCardle, was among those advocating direct Crown purchase of Maori land as a solution to the district’s ills, rather than the more circuitous route proposed by the Native Land Settlement Bill.¹⁰⁴ He encouraged the House to do so before the county council and town board expended borrowed money on improving the roads through it. The Waitomo County Council on the other hand was critical of renewed government purchase activities, claiming that the ploy of purchasing small interests in blocks to prevent them being leased was inimical to the interests of the district, which was to have as much land rate-producing as quickly as possible.¹⁰⁵ In October 1907 the council resolved to forward its criticism of the government’s settlement policy:

That in as much as the Native Land Administration Act of 1905 has been of great benefit to this County by enabling desirable settlers to acquire Leases of moderates sized blocks of Native land. This council deeply regrets that the Govt land purchase operations are now nullifying the benefit of the said act in this county and the immediate profitable occupation of land and construction of Roads by purchasing small interests in blocks which are already under negotiation for lease, thereby blocking intending settlers and locking up the Native Lands for years. This Council urges upon the Govt the desirability of confining purchase operations to such blocks of native land as are not under negotiation of Lease by settlers and also to remove as far as possible the existing difficulties in obtaining leases.¹⁰⁶

The council resolution suggests the Crown’s lack of any rational settlement design – other than to purchase as many Maori land interests as it could – had not improved. Councillor Jeremiah Ormsby’s

¹⁰² *Kawhia Settler*, 6 March 1908; DB:2703

¹⁰³ ‘The Great Question’ was first discussed in an editorial of the *King Country Chronicle* in November 1906 which was followed by three long articles published over January and February 1907; DB:2724-2735

¹⁰⁴ *Kawhia Settler*, 27 September 1907; DB:2697

¹⁰⁵ *King Country Chronicle*, October 1907; DB:2770-71

¹⁰⁶ Waitomo County Council minute book, 21 October 1907; Waitomo DC; Digital DB

additional motion that the Minister of Lands be asked to have all surveyed Crown lands within the county thrown open for settlement as soon as possible, also indicates that the Crown was not making the best of what it had already obtained.

The Native Land Commission's activities are the subject of research currently underway by Terry Hearn. The following table has been drawn from Hearn's summary of the commission's 1908 recommendations, to give some indication of the scale of forced vesting per county that was envisaged. Hearn relates that as at the end of March 1911, 203,530 acres had been vested in the Waikato Maniapoto District Maori Land Board, the district of which was larger than the King Country counties shown below. The area vested in Waikato-Maniapoto was second only to that of Te Tai Tokerau.¹⁰⁷

County	Lands already leased or under negotiation	Lands for Maori occupation	Land for general settlement	
			By lease	By sale
Waitomo	118,955	84,904	105,385	12,429
Kawhia	16,652	8,470	13,212	1,166
Awakino	48,095	10,175	5,205	3,892
West Taupo	28,239	32,622	95,333	60,918
Total	211,941	136,171	219,135	78,405

The implementation of the Native Land Settlement Act 1907, enabling the Board to alienate compulsorily-vested Maori land by lease or sale, held the promise of providing the county councils of the King Country with the requisite rating base for future works. But it did not stop there. The Act also aimed to transfer the costs of establishing settlement onto the vested lands. Section 38 of the Native Land Settlement Act 1907 empowered the government to make advances out of the Public Works Fund to Maori Land Boards to fund surveys, road formation, and otherwise 'opening up' and preparing vested lands for settlement. These amounts, limited to £20,000 per board in any one year, could be subsidised by Public Works grants. All such advances plus interest at 4 per cent per annum, was to be repaid by instalments from the revenue of the lands. Section 40 provided that revenue was also required to meet

¹⁰⁷ Taken from Dinda Consultants Ltd, 'Scoping Report: Te Rohe Potae land issues post-1908 to c.2008', (CFRT, 2009), table 1.3 and 1.4

other charges against the land, including rates. In the long-standing colonial tradition of adding insult to injury, Maori once again were to bear the cost of their colonisation.

The extent to which the revenue received by the Board did in fact fund road development will also no doubt be the subject of research undertaken by Terry Hearn. The Taumatotara loan block was one such security for a Treasury advance: £7,500 was borrowed to pay for the cost of roading, with no local body contribution whatsoever.¹⁰⁸ Initial scoping research by Hearn indicates that the Board did not in fact live up to expectations, in that some 43 per cent of vested land, or 82,199 acres, was still unoccupied by 1927. By 1913 the Board's land transactions, whether by sale or lease, without any provision for road access was the subject of increasing local body frustration. In May 1913 the Kawhia County Council resolved:

That this Council enter an emphatic protest against the method adopted by the Native Land Court and Maori Land Board in approving transfers and leases of native lands without having provision made for legal road access. This council also urges the Government to take steps at an early date, to enact such legislation as will place the subdivision of native lands in the same position as applies to Crown and private lands in respect to road access.¹⁰⁹

Disseminated amongst the local bodies in the district, the resolution was adopted by the Raglan County Council and the newly formed Awakino County Council in August 1913.¹¹⁰ Local MP Wilson's response was that the matter 'would be provided for in the forthcoming Act.'¹¹¹

2.2.4 *Te Rohe Potae townships*

The history of Te Rohe Potae's native townships has been covered to a large extent in Bassett and Kay's research into the impact of the Native Townships legislation in Te Rohe Potae.¹¹² Their work has tracked the compulsory acquisition of the five King Country township areas; the laying out of township sections (in the case of Te Kuiti and Otorohanga over substantial existing improvements); the diminishing role of local Maori on the Maori Land Council; and the ultimately successful lobby of Pakeha lessees to gain the freehold. From a local government point of view, the townships of particular significance are those which built on significant Maori foundations: Te Kuiti, Otorohanga and, to a lesser extent, Kawhia. Taumarunui,

¹⁰⁸ Auckland registrar to Under Secretary Native Department, 7 September 1915, MA 1 1145 1915/2591; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1915-2591

¹⁰⁹ Kawhia County Council minute book vol 2, 17 May 1913; Digital DB

¹¹⁰ See for example Awakino County Council Minute Book, 23 August 1913, vol 1, p 14; DB:2497

¹¹¹ Awakino County Council minute book 1913-17, p 18; not in DB

¹¹² Heather Bassett, Richard Kay, 'The Impact of the Native Townships Acts in Te Rohe Potae: Te Kuiti, Otorohanga, Karewa, Te Puia [sic] and Parawai Native Townships', a report commissioned by CFRT for the Te Rohe Potae Inquiry District, confidential draft, November 2009

lying just outside the inquiry district, has only been included to the extent that it informs the development of the others.

The townships of Otorohanga and Te Kuiti predated their proclamation as native townships in 1903. Land sales revenue had been invested in modern buildings, and by the mid-1890s both were said to have the semblance of Pakeha villages. After seven years of negotiation, in statutorily-contrived circumstances in which Maori were prevented from entering into private land transactions to advance their ambitions for these townships, the government finally gained Ngati Maniapoto's agreement to placing the township areas under the native townships legislation. An important concession won to overcome concern about ownership and control was the vesting of township sections and their administrative control in the Waikato Maniapoto District Maori Land Council, rather than the Crown. At the time, the land council comprised three elected Maori members, Pepene Eketone, Erueti Arani and Te Papanui Tamahiki; two Crown appointees John Ormsby and John Elliot; and a Crown-appointed president, George Wilkinson. The Crown appointees ensured a council that was, in the lingo of the day, 'progressive', but this by definition, did not mean a complete departure from Maori interests, and John Ormsby still largely appears to have been the mouthpiece of Ngati Maniapoto at this time. Evidence in Bassett and Kay's work suggests that the early Council had a flexible and creative approach to overcome both Maori and settler objections as they arose, although much of this was quashed by the Surveyor General.

In terms of local government, under the original Native Townships Act 1895, the costs associated with establishing a native township – those of survey, laying out (and, it is assumed, forming) streets, and compensation for existing improvements – were to be borne by the town lands, borrowed from the government and paid back through deductions from the lease revenue. An 1899 amendment spread these costs out over 10 years, to ensure that there were in fact leftovers for the Maori landlords to receive.¹¹³ These powers were subsequently transferred to the Maori Land Councils.¹¹⁴ Less attention was directed by Parliament towards the future needs of settlement such as street maintenance, lighting, drainage, sewerage and rubbish collection, adding to the impression that the whole native townships legislation was a short-term expedient to force a Pakeha toehold of settlement into areas of strong Maori control.

It worked. Ngati Maniapoto's administrative control came to an abrupt end in 1905, when the land council was streamlined into a three-member Maori Land Board, all Crown-appointed. Ormsby resigned in 1906 and the new president AF Puckey resided in Auckland. From this time the board turned into a leasing and rent distribution agency, and not the one-stop-shop for town concerns it had been.

¹¹³ Native Townships Act Amendment Act 1899

¹¹⁴ Native and Maori Land Laws Amendment Act 1902

The Native Township Local Government Act 1905 was passed to enable the occupants of such towns to rate themselves in order to meet their burgeoning requirements. In all but one township – Taumarunui – the legislation was arguably redundant, for this was the only native township which was located within an inoperative county, West Taupo.¹¹⁵ In all other cases throughout New Zealand, the needs of the native townships could have been met by the county councils, in the way of other small county towns. There was nothing particularly ‘native’ about the 1905 local government measures. In the first election, one of the five members of the town council was to be a government-appointed Maori, but this arrangement was not to endure beyond the first year of operation. It could be said that the provision exempting unleased or unoccupied sections from rates, and exempting the Maori Land Board from liability for rates in excess of the funds in hand available for each section, was a quirk peculiar to the native townships, but again a similar provision existed for vested Maori lands under the Native Trustee.

In any case, the Act only came into operation if it was declared by the Governor and gazetted. Both Te Kuiti and Otorohanga fell within the Waitomo County, and within the respective ridings of the same name. On a council comprised of farmers, and all of them scrabbling over the expenditure of their meagre thirds, the wants of these towns were not an immediate priority. Even within the nation’s more established farming districts it was widely understood that ‘county councils as a rule look after the requirements of main district roads and rarely care a jot for the welfare of townships.’¹¹⁶ No town works feature on Waitomo County Council’s 26 ‘most pressing works’ of August 1906.¹¹⁷

In the case of Te Kuiti, town affairs were run to a large extent by the Te Kuiti Vigilance Committee. Among the achievements the committee claimed responsibility for by July 1907 were the postal and telegraph connection of the Mairoa-Ngapaenga-Mangaohae service; the establishment of railway facilities including new loading cattle yards; an early train service; the Mangawhitikau bridge; the town’s recreation ground; an increased area being taken for scenic purposes at the Mangaokewa Gorge; and the appointment of the town’s cemetery trustees, JPs and coroner. The group professed a responsibility in sanitary matters ‘several places were pointed out to the police with a request that the owners be warned’, and made early representations to government to have their leases converted to freehold.¹¹⁸ The Te Kuiti Vigilance Committee then, was a lobby group of not inconsiderable force in the community.

¹¹⁵ A report in the *Taumarunui Press*, 16 October 1906, claims the Act was indeed expressly intended for Taumarunui; Digital DB

¹¹⁶ *Taumarunui Press*, 29 October 1907; Digital DB

¹¹⁷ Waitomo County Council minute book, 13 August 1906, p 44, Waitomo DC; Digital DB

¹¹⁸ *King Country Chronicle*, 5 July 1907; DB:2760-61

Interest in taking on the trappings of local government gained momentum following the sale of the last town leaseholds in June 1907, not because of any resulting increase in the town's population but rather, it is suggested, as a result of the committee's failure to convince government to convert to freehold. Waitomo County Council had sought legal advice regarding the local government status of Te Kuiti the previous May, and had been told that the council had no authority in the matter, that the town residents should get their own incorporated body, rate themselves, and do the work.¹¹⁹ The resolve to stall the imposition of rating until the freehold was obtained was fast giving way under the dire need for town improvements and, more significantly, the beginning of rising land values. The high prices achieved at the sale meant in turn high rentals and 'unless the properties are turned to account within a reasonable time, there will be a considerable amount of capital sunk in them without return'.¹²⁰ As the local newspaper put it, 'The prospect of improving the township for the benefit of the owners may not be an alluring one, but there are over-powering arguments on the other side, and it is sound policy to choose the lesser evil, and work for the elimination of the iniquity afterwards.'¹²¹

A resolution to form a town board was passed at a public meeting on 28 June 1907, and a committee was elected to make it happen.¹²² Jeremiah Ormsby was one of them, and he argued his preference to form a board under the Town Districts Act 1881 rather than the Native Townships Local Government Act 1905. Te Kuiti would soon be a borough, he argued, and the transition to borough status would be easier as a town district. The councillor was obviously not aware at this point of the huge anomaly in the borrowing powers of the respective entities: town boards were restricted to a £300 maximum; native township councils operated on the same basis as a borough, with a much greater borrowing limit. Of early concern to the committee was the liability of the District Maori Land Board to properly form the streets. Perhaps these were the 'side issues' referred to in the local newspaper that stalled further action. In November 1907 another public meeting was held to discuss raising a special loan for street improvements, this time under the auspices of the county council. The meeting was chaired by Ormsby, with influential property-owner James Boddie pressing for urgency. 'The chairman had told the meeting that the borrowing powers of the council might be exhausted next year, and the sooner steps were taken the better. He felt sure that once the town was decently improved, the enhanced value of the property in every respect would vastly

¹¹⁹ Waitomo County Council minute book 1, 20 May 1907, p 88; Digital DB

¹²⁰ *King Country Chronicle*, 14 June 1907; DB:2755

¹²¹ *Ibid*

¹²² *King Country Chronicle*, 28 June 1907; DB:2756

more than compensate for the extra rate'.¹²³ Another committee was appointed to formulate a scheme, whose members included Pepene Eketone.

In November 1907 Waitomo County Council agreed to arrange a nightsoil service for the town and in January a ½d sanitary rate was levied on town residents to pay for it.¹²⁴ At this time too, Councillor Ormsby's proposal that the Council approve a £2000 loan for street formation in Te Kuiti was carried. The loan was to be repaid by a special rate on all rateable property within the Native Township District. Revaluations and revised rolls for Te Kuiti were undertaken as a result and the special order approved in July 1908.¹²⁵ An additional request to finance repairs to Queen Street in September 1908 was turned down by the Waitomo County Council for want of funds.

Te Kuiti was gazetted as a Native Township under the 1905 Act in December 1908. The forces behind this development are not known. Pakeha residents were reportedly opposed to native town council status, preferring to delay incorporation until the town reached borough proportions. Jeremiah Ormsby implied it was a government-imposed measure, and promised to fight it 'tooth and nail', citing the expense of double administration as the greatest objection.¹²⁶ In November 1909 Waitomo County Council agreed to a £200 top-up of the town loan, which suggests that nothing further was done to establish the native town council.¹²⁷ Five months later Te Kuiti Borough was gazetted. The boundaries of the new borough incorporated all of the former Native Township lands as well as the county surrounds. Two of the 10 inaugural members were Pepene Eketone and JT Hetet, but they did not serve for more than one year.

The pressure from lessees on the government to convert the leasehold of the native township lands to freehold has been dealt with in Bassett and Kay's work. The significant role of the Te Kuiti Borough Council in this pressure can be seen to date back to the council's early predecessor, the Te Kuiti Vigilance Committee. Local government – locally raised tax based on occupancy to pay for local works – was in fact integral to the freehold lobby. An early petition emanating from Taumarunui in 1906 explained:

The Native owners derive very high rents from their section, but nothing comes out of these rents to improve the township. The newly elected Council has no means of deriving revenue with the exception of taxation on the residents. The town being sparsely populated, it remains that to do any improvements would be to impose excessive taxes which would not be tolerated. At present the township is practically

¹²³ *King Country Chronicle*, 8 November 1907; DB:2775

¹²⁴ Waitomo County Council minute book 1, 20 January 1908, p 118; Waitomo DC; Digital DB

¹²⁵ *Ibid*, 23 July 1908, p 148; Digital DB

¹²⁶ *Evening Post*, 11 March 1909; not in DB

¹²⁷ Waitomo County Council minute book 2, 21 November 1909, p 3; Waitomo DC; Digital DB

at a stand still, so it behoves the leaseholder to humbly and earnestly petition the government to procure the freehold of the said township ...¹²⁸

This argument was discounted at the time by Stout and Ngata: 'The terms or conditions of the leases cannot affect the rating-powers of the Town Councils, and we fail to see how either the rating or borrowing powers of the Councils are restricted by the present tenure. ... courage only was required to levy special rates or a higher general rate to meet the increasing requirements of such a rising township.'¹²⁹ It nonetheless remained the essence of argument for freehold. An 1908 editorial of the *Kawhia Settler* scoffed at the 21-year lease arguing that the Pakeha settler 'when he leaves the advantages of order[ed] settlement and breaks in new country, taking it over in its waste state, without improvements, and in combination with fellow settlers puts in his time, money, knowledge and labour in establishing a town or district his reward should be something better than the bare income he may make during the 21 years of his lease...'¹³⁰ Particularly if, as the *Taumarunui Press* more honestly pointed out, in making such improvements in the way of sanitation, lighting, drainage and suchlike, Pakeha were 'simply doing work the benefit of which will revert to the Maoris.'¹³¹

Less is known of Otorohanga's move towards incorporation. Like Te Kuiti, it depended on its parent county to fund early street improvements, which were necessarily humble. In September 1907 residents raised £28 amongst themselves to which the county added another £12, charged against the Otorohanga Riding account.¹³² Small repairs continued to be charged against the riding account for the next two years. In August 1909 the council instructed the county engineer to prepare an estimate for the formation and metalling of the town streets.¹³³ A town council was up and running by July 1914, chaired by John Ormsby.¹³⁴ Three of the five members, including Ormsby, were also members of the Otorohanga Chamber of Commerce. At the July monthly meeting a complaint was received 'from natives' with regard to the deposit of night soil near Te Kaete pa and the council resolved to visit the dumping ground to 'find out the true position of affairs'. Otorohanga was constituted as a dependent town district in 1916.

Local government at Kawhia was also preceded by a Vigilance Committee. This was up and running in August 1902 and considered itself to be 'the only organization that could do anything for Kawhia at

¹²⁸ *Taumarunui Press*, 21 September 1906; Digital DB

¹²⁹ 'Native Lands in the Rohe-Potae (King Country) District', AJHR 1907, G-1B, p 9

¹³⁰ *Kawhia Settler*, 3 October 1908; DB:2707

¹³¹ *Taumarunui Press*, 10 July 1908; Digital DB

¹³² Waitomo County Council minutes, 16 September 1907, p 99, Waitomo DC; Digital DB

¹³³ *Ibid*, 16 August 1909

¹³⁴ *King Country Chronicle*, 11 July 1914; not in DB

present'.¹³⁵ The twelve members of the committee were drawn from the Pakeha business interests in the town: shipping and goods merchants, storemen, auctioneers, valuers, insurance and land agents ('Native lands a specialty') and the head teacher of the public school.¹³⁶ For a time they met regularly to discuss local concerns ranging from coronation celebrations to plans for a cottage hospital for the town, and their opinions on matters of 'public interest' extended to government settlement policy in the district. The committee considered there to be 'too much coddling' with regard to opening up Maori land for settlement: it favoured freehold over leases, and private enterprise over government or land board control. One committee initiative was a petition to have the two native townships of Te Puru and Karewa opened for occupation. In October 1902 the settler interest group went so far as to resolve to have a committee-appointed replace the recently-deceased John Elliot on the Maniapoto Land Council.¹³⁷

The Kawhia Vigilance Committee was also largely behind the impetus for county status for the Kawhia district described above, but even by the second meeting of the inaugural county council friction between the town members and outlying riding representatives was palpable. Meetings were often heated, with frustrated farmers directing caustic remarks to the town-dwellers: 'Residents do not know what it is to tramp over roads like the Okupata. They seem to want asphalt footpaths.'¹³⁸ Little over a year later, a petition to set up a separate town board was endorsed by a divided council.

The Kawhia Town Board was in operation by November 1906. By October 1908 a meeting of disgruntled ratepayers were making all the familiar noises over the non-payment of rates from Maori land 'very natural to a growing community of Europeans living within a native land area.' Of the 311 acres in the town district, 260 acres were owned by Maori 'every acre of which has been adjudicated on, the title individualised and the ownership known.'¹³⁹ Once again, the inability of Maori landowners to deal with their land was the reason attributed to the impasse:

The native owners (the Ngatihikairo tribe) are intelligent people, the younger ones more or less educated on European lines, and all quite able to take their stand alongside their European friends on a footing of equality. They are fully alive to the value of their land, and capable of dealing with it advantageously. From personal experience we know they can drive a hard bargain – whether for lease or sale. These people with men like Cowell and T Wetere at their head, now ask why continue to have two laws, one for the native and one for the Europeans? They ask

¹³⁵ *Kawhia Settler*, 4 October 1902; not in DB

¹³⁶ The advertisements in the newspaper give an insight into the various occupations of the members.

¹³⁷ *Kawhia Settler*, 4 October 1902; not in DB

¹³⁸ *Kawhia Settler*, 10 August 1906; not in DB

¹³⁹ *Kawhia Settler*, 3 October 1908; DB:2707

to be given the same rights and privileges as Europeans and are willing then to accept the same responsibilities. To restrict the natives dealing with their land, to put restraints on them not applied to Europeans and yet tax all equally, would not be fair or just.¹⁴⁰

These comments were made at the time of Ormsby's challenge to the rating of Maori land on the basis of nil valuation discussed at (2.2.1), and the 'non-payment' was not the result of default, but rather the removal of the lands from the district rating roll as a result of the legal action. While the above comments were undoubtedly largely inspired to bring an end to the government monopoly on land purchase, it is of interest that even aggrieved ratepayers could see the injustice of rating Maori land on this basis.

2.2.5 *Burgeoning settlement/burgeoning debt*

The incorporation of the Borough of Te Kuiti in 1910 coincided with the influx of newcomers with considerable capital. Both land values and confidence rose dramatically. So, too did local body spending. In its first year of operation the borough council borrowed £27,275 for the construction of drainage works, street formation and a water supply.¹⁴¹ Under Boddie's continued stewardship, by March 1915 the public debt had risen to £55,168 in six loan accounts for works including electric light installation, street improvements, dam and water extension, sewerage works, river diversion and a stone crusher.¹⁴² Rates were levied on the unimproved value, including a general rate of 2¾d; a special works rate of 1¾d; a special electric light rate of 1d; a special street improvement rate of ¾d; and a separate water rate of ¾d.¹⁴³ The investment in the town's public works and the resultant huge increase in land values only added to the lobby to have existing leaseholds of township lands converted to freehold.

In the four years from 1910, the total receipts of the Waitomo County Council too, had trebled from £9579 to £28,327. Despite halving the general rate levied, that collected had also increased spectacularly from £1866 in 1910/11, to £5226 for 1913/14. The mounting public debt was as equally spectacular at £34,860, and six years later it would stand at £110,000. In the 1913/14 year alone the county had attracted £7455 in government subsidies for road formation which had to be met pound for pound from borrowed funds. No less than 12 special loans had been taken out by this time to finance work in defined special rating areas, and it was the default from Maori on these special rates that was of growing concern to the county council. As the chairman explained in 1914:

¹⁴⁰ *ibid*

¹⁴¹ Te Kuiti Borough Council, balance sheet 1910/11, Waitomo DC; DB:2219-23

¹⁴² *Ibid*, balance sheet 31 March 1915; DB:2224-32

¹⁴³ *King Country Chronicle*, 22 July 1914; DB:2789

In order to provide interest and sinking fund on any loan for one year a rate is struck over that particular area just sufficient to provide that one year's interest plus 10 per cent. But, say, £10, a portion of the rate, is not collected in the case of natives, we must have that deficiency made up the next year. We would require to strike a rate next year over the same area to produce £10 more, and so on, every year until rates become recoverable from the native lands. The General Rate, if not paid for three or four years, does not cause any serious difficulty, but the interest on loans has to be met every year, and consequently the rates must be collected from that particular loan area to meet it. The amounts so far in respect of each area are not very big, but they will accumulate each year.¹⁴⁴

Both the general and special rates at this time were based on the capital value of land. According to the chairman, land owned or occupied by Maori in Waitomo County accounted for £336,686 of the total rateable value of £2,005,425 – about 17 per cent – and represented an annual liability of £806. Significantly, rates were received from Maori on account of 78 of the 703 Maori-occupied assessments, the other 625 properties were in default. The chairman publicly inferred that the liable occupiers were accurately recorded: 'Their names appear on the County rolls as owners or nominated Maori occupiers', and stated that the expense of registering the unpaid rates as a lien against the title – at 5 shillings per assessment plus title searches and lawyer costs – deterred the council from enforcing collection.¹⁴⁵ The evidence however suggests that keeping rolls up to date was an ongoing struggle. Four years before the Native Department had brushed off the request of the Department of Agriculture for a list of liable Maori landowners in the region with regard to rabbits and noxious weeds, on the grounds that so many transactions were taking place, as well as partitions and successions, that any list would be obsolete in six months time.¹⁴⁶ Since then, the reinstatement of Maori land onto the Waitomo County valuation roll may have improved matters, but the news in 1914 that 300 returns from the Waikato-Maniapoto District Maori Land Board – signifying 300 transactions – had not been forwarded to the Valuation Department suggests that matters had not improved much (see 3.1.1).

Kawhia County did not share in the boom times from 1910 to the same extent. Arthur Ormsby's prediction, that if the railway branch line to Kawhia was not built until Maori sold their land Kawhia residents would never see it, proved true. Kawhia County Council's aspirations of developing the harbour as the district's main port suffered a similar fate. Council borrowing was a great deal more modest and it was equally cautious about taking over control of government roads. In 1913, £2750 was borrowed for

¹⁴⁴ Ibid; DB:2791

¹⁴⁵ Ibid

¹⁴⁶ Under Secretary Native Affairs to Secretary Agriculture, Commerce and Tourists, 16 November 1910, MA 1 1042 1910/5093; Digital DB: ArchivesNZ Wgtn, MA 1 files, MA1-1910-5093

widening and metalling the Awaroa road, and in 1915 a loan of £2000 for the Pirongia West road was granted for the same purpose. In 1916, £4400 was borrowed for improving the roads in Kawhia South. In that year too, the council resolved to lodge liens in respect of all Maori rates unpaid for three years.¹⁴⁷

Over and above the rates default from Maori ratepayers, in 1914 the Waitomo County Council identified its most serious problem as the provision of access to Maori land – to Pakeha occupiers.

The difficulty seems to have arisen on the account of the natives being allowed to deal with their land without making any provisions for roading. The now occupiers of these various native blocks are making repeated supplications to the Council to give them road access. In cases where the application only benefits one section the Council are loth to move in the matter, if so, the County would very soon be dotted over with blind roads which probably in a year or so would be of no use.¹⁴⁸

Waitomo County Council's comments below appear to relate to private lease transactions made since the removal of the government restrictions in 1909. As pointed out above, similar complaints were expressed by other local bodies in the district at this time, the Kawhia and Awakino County Councils directing their protest to the failings of the Maori Land Board and Native Land Court.

2.2.5 Impact on Maori

It is clear that in the early years of Waitomo County Council the participation of the Ormsby brothers had a moderating effect on its activities. Jeremiah Ormsby was an inaugural member for the Riding of Te Kuiti and remained on council until his untimely death in July 1909. In his last year he was chairman of the council, his name being drawn from a hat to resolve the impasse over rival nominations.¹⁴⁹ John Ormsby was the county's interim clerk, responsible for making up the county's inaugural roll. He was then employed by the new council as county clerk from October 1905. Council dissatisfaction with his work – reflected in Councillor Were's proposal to find a clerk 'who will devote whole of his time to business of the county' – coincided with Jeremiah's death and he was in fact replaced by September 1909.¹⁵⁰

Their positions on council meant that the inequities facing Maori, in terms of paying rates for example, were well-known to the council, and publicised in the district. It was John Ormsby after all, who argued the case for a nil valuation in the Supreme Court. As noted above (2.1.2), both men attended a local body conference organised by Raglan County Council in May 1909 about rates from Maori land and reminded

¹⁴⁷ Kawhia County Council minute book, vol 2, p 174, Otorohanga DC; Digital DB

¹⁴⁸ *King Country Chronicle*, 22 July 1914; DB:2791

¹⁴⁹ Waitomo County Council minute book 1, 25 November 1908, p 164, Waitomo DC; Digital DB

¹⁵⁰ *Ibid*, 10 May 1909, p 190

the gathering about the disabilities Maori landowners faced in dealing with their lands as a result of legislative restrictions. Extending capital finance and removing restrictions to capable Maori landowners, they argued, would meet the difficulty of collecting rates. This was consistent with the representations made by Taonui and others on behalf of Ngati Maniapoto to the Stout-Ngata commission in May 1907, which was handed in (and no doubt drafted) by John Ormsby. Stout and Ngata had been impressed with Ormsby and the ‘strong progressive party’ he represented within Te Rohe Potae, ‘led by very intelligent men, who are well informed on the Native question and recognise the necessity of a comprehensive system of administration, which would open large areas of land for general settlement, while reserving areas adequate for the occupation of the present owners and for their use and training as farmers.’¹⁵¹ Ngati Maniapoto had drawn the commissioners’ attention to the fact that ‘for nearly twenty-five years we have endeavoured to establish satisfactorily methods of utilising our lands. But, notwithstanding all our efforts, the laws affecting Native lands have proved harassing, and entirely against progressive settlement.’¹⁵² Ngati Maniapoto called for an end to Crown purchase and the restrictions on alienation. They advocated instead strengthening the role of the Maniapoto-Tuwharetoa Maori Land Board to facilitate, in conjunction with government financial assistance, Maori utilisation of their lands. Papakainga would be inalienable and suitable areas set aside for the business of farming. In addition to practical farming instruction, the government would provide financial assistance by extending the loan provisions under the Advances to Settlers Act to Maori farmers. The board would provide a measure of control – supervising loans and expenditure of sales revenue for example, and extending even to the alienation of ‘surplus’ lands, through either lease or sale.

The enthusiasm for strengthening the role of the Land Board was not shared by all. Members of Ngati Rereahu, Ngati Whakaterere, Ngati Matakore, Ngati Tutakamoana, Ngati Te Ihingarangi, Ngati Hare and Ngati Rora challenged Ormsby’s claim to represent the ‘King-country Maoris’, and resented any interference – whether by the Crown or by the board – with their right to deal with their lands. These sentiments were explained by the commissioners as a result of ‘a distrust, founded on past experience, of pakeha law and justice.’¹⁵³ Notwithstanding the rift however, the commissioners claimed that ‘the Maori tribes throughout the Rohe-Potae, though divided in opinion as to the best method of opening their land to settlement, are anxious and eager to have those lands made productive as soon as possible.’¹⁵⁴

¹⁵¹ ‘Native Lands in the Rohe-Potae (King Country) District’, AJHR 1907, G-1b, p 6

¹⁵² Ibid

¹⁵³ Ibid, p 5

¹⁵⁴ Ibid, p 7

The Ormsbys' position on settlement may not have been representative of all within Te Rohe Potae, but their presence on council meant that in its formative years Waitomo County Council exercised its powers with a degree of circumspection. The issue of 'roads through native lands' begins to appear in Waitomo County Council records alongside that of 'roads generally' by June 1908 – with the imminent visit of Prime Minister Ward. At this stage the issue was not so much one of cost, as identified above, but of the council's authority to lay off roads over Maori land, a new flexing of local body muscle which up till now had been the preserve of the government. In September 1908 James Boddie, a propertied ratepayer of some standing and Te Kuiti's future mayor, requested council to take steps to have a road laid off 'to give access to his other sections in the neighbourhood. And thus establish a precedent in the public interest regarding roads through Native Lands.'¹⁵⁵ He even offered to pay the survey costs. Council agreement was proposed by Jeremiah Ormsby, and carried. The council's subsequent recommendation in January 1909 was its first request for the issue of a Governor's warrant taking the land.¹⁵⁶ In December 1909 a letter was received from a G Hetet and others about Boddie's road, asking that in the event of the road being put through, their lands be not damaged.

It was not until after the departure of both Ormsby brothers that the Waitomo County Council's recommendations began to resemble those of neighbouring local authorities. In January 1910 the council supported the proposal from replacement riding member for Te Kuiti, James Boddie:

That in view of the increased expenditure on Roads through Native Lands the time has arrived when a united and determined effort should be made to induce the Government to so amend the Rating Act that Local Bodies will be able to include such in any Special Rating area and also collect the ordinary rates and that all the County Councils in the North be circularised with a view to united action being taken before next Session of Parliament.¹⁵⁷

The Public Works Takings database prepared by David Alexander tends to support the contention that the county council's targeting of Maori land for public purposes increased once the influence of the Ormsbys' ended. Twelve areas were taken for quarry reserves and gravel pits by Waitomo County Council in the period 1912-1925, eleven of them from Maori land and only one from Crown land.¹⁵⁸ Of course, this too is indicative of the marked increase in Pakeha settlement in this period.

¹⁵⁵ Waitomo County Council minute book 1, 11 September 1908, p 148, Waitomo DC; Digital DB

¹⁵⁶ Ibid, 11 January 1909, p 172

¹⁵⁷ Ibid, minute book 2, 17 January 1910, p 19

¹⁵⁸ David Alexander, 'Te Rohe Potae Public Works Takings Database', accompanying 'Public Works and Other Takings in Te Rohe Potae District', Te Rohe Potae Research Programme (Draft), 2009

It was not until March 1911 that the council took steps to put Maori land back on the rating roll. A young Walter Broadfoot explained to the Native Minister that the question was ‘a very important and urgent one in Counties like the Waitomo County where so much of the land is the property of the Natives and where owing to the influx of European settlers improvements are being effected at a rapid rate.’¹⁵⁹ He explained that the lack of any contribution from Maori land included in special rating districts ‘tends to cause dissatisfaction and is certainly not equitable.’¹⁶⁰ In response the council was told that Maori land was being included in the valuation rolls being prepared by the Valuation Department under the Rating Amendment Act 1910.

As discussed above, increasing local body pressure for rates from Maori land is evident from 1914, the result of increased public indebtedness. Within Te Kuiti Borough, in April 1916 Hiri Wetere Kereti and Rewatu Hiriako wrote to Maui Pomare, protesting over the levying of rates by the borough council over papakainga land on which Te Tokanganui a Noho stood. They argued that the house was sacred, serving as a meeting house for the whole community: ‘hei whare huihuinga mai mo tatou me o tatou hoa pakeha ki te whiriwhiri tikanga whakahaere e pa ana ki waenganui i a tatou i te Iwi Maori tae noa ki o tatou hoa Pakeha’; and that it was also a burial ground.¹⁶¹ Their request to have the area exempted from rating liability was referred to Judge Holland, who responded:

Personally I fail to see why the property should not pay rates. Advantage has been taken of all the improvements instituted by the Borough; water is laid on; all the conveniences are connected with the local drainage system and the house is lit by electricity from the Borough mains.

It is quite evident from this that the Natives are willing to accept all benefits obtained by rating but are unwilling to bear their proportion of the burden of obtaining such benefits.¹⁶²

This in fact became the tenor of Native Minister Herries’ response, translated into Maori: ‘e tika ana kia utu reiti tahi te Maori me te Pakeha.’¹⁶³

Waitomo County Council’s early reticence can be contrasted with its neighbour on the coast. Tauiri Wetere, a prominent leader and landowner at Kawhia, unsuccessfully contested both the inaugural

¹⁵⁹ Acting clerk Waitomo County Council to Native Minister, 14 March 1911, MA 1 1049 1911/184; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1-1911-184

¹⁶⁰ Ibid

¹⁶¹ HW Kereti, R Hiriako to M Pomare, 8 April 1916, MA 1 1154 1916/1834; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1916-1834. This was translated as ‘... upon which is built our house named Tokanga-nui-a-noho wherein both races have amicably met together and considered matters affecting the welfare of both.’

¹⁶² Judge Holland to Under Secretary Native Department, 12 June 1916, in above

¹⁶³ Native Minister to HW Kereti, 15 June 1916, in above

Kawhia County Council election and the subsequent contest for the Kawhia Town Board (8.1.1). There was no Maori presence on either council. By its second meeting the Kawhia County Council had resolved to have vested in it the powers of a harbour board, which was subsequently constituted by September 1906. This essentially gave the councillors control over the harbour, the major means of communication in a district with few roads. It also gave them control over the construction of any harbour works and land reclamation, and empowered them to make bylaws regulating shipping, including the levying and collection of fees on vessels and goods. At the initiative of local MP FW Lang, a harbour endowment of 6300 acres of Crown land was set aside in 1907 and opened for lease shortly after, providing the board with an important source of revenue. A similar bid to gain control of the Aotea harbour was made by the county council in April 1914.¹⁶⁴ The outcome of the council's resolution is not known.

By March 1906 the Kawhia County Council had declared the foreshore of Kawhia Harbour, from the town to the mouth of the harbour, to be a public road. As noted above (2.2.3), it was also by this time calling for the government purchase of the Matakowhai, Taumatotara and Mahoe blocks as a means of accelerating Pakeha settlement in the district. In February 1909 Kawhia County Council inquired through local MP WT Jennings about the possibility of having Maori land adjoining mudflats fronting the township reserved by the government for reclamation purposes: 'This strip of land would form the frontage to a large portion of the reclamation – in fact it would not be of much use to reclaim the flats to seaward of this land if the same were in the hands of the natives.'¹⁶⁵ The clerk's comment that 'I have no doubt but that if the natives have any idea that we have designs on the land they will take such steps as will make it difficult for the Council to carry out its scheme' suggests a relationship already under strain.¹⁶⁶ In his response, the Under Secretary for Native Affairs pointed to the restrictions against alienation in place on the title, advising nonetheless that in the event the council decided to acquire the land by way of purchase from the owners, such restrictions could be overcome by an Order in Council.¹⁶⁷ The absence of any taking in Alexander's Public Works database suggests the council let the matter drop.

A comparison of both counties' early handling of dog registration is illuminating. Both local government and the watered-down Maori equivalent established under the Maori Councils Act 1900 were empowered to register dogs and collect the corresponding fees. The jurisdiction of Maori councils extended only to Maori-owned dogs. In Waitomo County the council introduced a dog tax in February 1907, but having

¹⁶⁴ Kawhia County Council minute book, vol 2, p 105; Otorohanga DC; Digital DB

¹⁶⁵ Kawhia County Council clerk to WT Jennings MP, 2 February 1909, MA 1 1909/137; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1909-137. The land desired was an acre from Kawhia K2.

¹⁶⁶ Ibid

¹⁶⁷ Under Secretary Native Department to clerk, Kawhia County Council, 26 March 1909, in above

first sought legal advice as to the council's competing jurisdiction with the Maori Council, the new tax applied only to Pakeha-owned dogs.¹⁶⁸ The council's approach, that Councillor Ormsby 'confer with the Maori Council with a view to cooperation' was markedly different from that of Kawhia County Council. According to the Kawhia dog tax collector, '[w]hen asked for the tax the natives invariably produced a letter from the secretary of the Native Council, stating that they were not to pay.'¹⁶⁹ At a council meeting in July 1906 Councillor Babbage reportedly argued 'The Maoris, who were the ones they more particularly wished to make pay, absolutely refused to pay the tax, and it was to the county's interest to force them to do so. If they were let off this year the tax would never be collected, and he thought it advisable to bring a test case before the court.'¹⁷⁰ The Kawhia Council Council resolved to prosecute three cases in the next Kawhia Court. This news item was printed in the *Kawhia Settler* together with an accompanying anecdote from a Farmers' Union Conference at Pahiatua: 'The only way to collect the dog tax from the Maoris ... is by means of a shot gun and a collar. Carry the gun in one hand and the collar in the other. If they won't take the collar, let them have the gun!'¹⁷¹ The conference had adopted a resolution that local bodies should collect dog taxes, rather than the Maori councils.

This time period also saw the advent of other local body pressures on traditional Maori resources, particularly with regard to land drainage and river straightening or diversion. Although the activities of these bodies – the drainage boards in particular – are the subject of research for the Environmental Impacts report, it is pertinent to consider the context of their development in terms of early Pakeha settlement. In essence, once tenure was transferred, so too were lost any rights to use corresponding resources, or to preserve the same. The drainage of Te Kawa swamp, for example, was first mooted in December 1907. The 6000 acres of flax-bearing wetland between Otorohanga and Te Awamutu was renowned as a traditional food source: 'from the earliest times in local history, portions of it have contributed largely to the Maori food supply in the shape of toothsome eels.'¹⁷² Ownership of the swamp was retained by Maori but from 1905 efforts were made by JW Walsh to lease the entire area. The successful completion of these transactions, said to have been negotiated by Pepene Eketone and to have incurred a 'vast amount of work and travelling to secure the necessary signatures', was celebrated in the local newspaper in December 1907. At once a meeting of interested settlers was held to discuss draining the swamp, chaired by none other than John Ormsby. The meeting resolved that the drainage project

¹⁶⁸ Waitomo County Council minute book 1, 18 February 1907, p 73, Waitomo DC; Digital DB

¹⁶⁹ *Kawhia Settler*, 29 June 1906; DB:2693

¹⁷⁰ *ibid*

¹⁷¹ *ibid*

¹⁷² *King Country Chronicle*, 13 December 1907; not in DB. The importance of the Te Kawa swamp as a traditional food source was articulated by claimants at the first oral tradition hui at Otorohanga in 2010.

would be beneficial ‘not only to those present, but to the district as a whole’, and agreed to take steps to have a drainage district defined under the Drainage Act 1904, with Ormsby nominated provisional secretary of the proposed Board. The reported proceedings relate that the ‘matter of eel ponds, at the outlet of the Swamp, was brought forward by Mr. W. Coffin, and after consideration, Mr Coffin was advised to discuss the question with the owners, and submit a proposal in connection therewith.’¹⁷³ The relative weight given to the competing interests in Te Kawa were conveyed by the article. The claim that ‘... with the advance of civilisation into Te Rohe Potae, the food procuring methods of the Maori have changed considerably, and the eel weirs are but little used’ can be compared with the paper’s eulogizing over the gains from the proposed drainage of the wetland:

that has for generations existed as an unprofitable waste, being turned to its legitimate use. The earth and the fullness thereof are only possible to those who strive and are prepared to persist. The bringing in of every additional acre of new country means advancement, and the greater the difficulties that are overcome, the more deserving are those concerned of the hearty assistance and congratulation of their fellow settlers.¹⁷⁴

As a summary of prevailing attitudes underlying colonisation, the comment can scarcely be improved on. In the result, the farming aspirations of the newcomers were backed by parliamentary might.

The increasing control of local government inevitably led to conflict with Maori communities. Damage to roads by Maori-owned pigs was an early source of local body consternation, resulting in early bylaws about stock control. The spread of noxious weeds and rabbits was also attributed to unoccupied Maori land (and to a lesser extent unoccupied Crown lands) from an early date and the subject of repeated local body representations to government.¹⁷⁵ Local newspapers are a source of information about the increasing impingement of local bylaws on existing communities. In July 1914 for example, the *King Country Chronicle* reported on the Waitomo County Council’s attempt to impound straying stock:

The acceptance by the Maoris of European laws is coming slowly as was evidenced at Oparure yesterday. In consequence of the damage done by straying horses and cattle to county roads the Council authorized the local ranger to proceed to Oparure and impound the animals straying on the roads. When the operations of the ranger became known to the natives the village population turned out en masse

¹⁷³ Ibid

¹⁷⁴ *King Country Chronicle*, 13 December 1907; DB:2783

¹⁷⁵ See for example Kawhia County Council minute book vol 2, 27 November 1912, Otorohanga DC; Digital DB: Local Body records/Otorohanga District Council

and prevented the animals being driven away. It is understood further steps are to be taken in connection with the matter.¹⁷⁶

Although it falls outside the timeframe of this chapter, an incident at Te Maari on the Aotea harbour is also instructive. In the summer of 1927 an irate ratepayer from Aotea wrote to the county engineer about the damage to the Te Maari crossing caused by Maori in the course of their eeling. As the district engineer related somewhat more dispassionately to the Native Department:

It was found that the Natives had dislodged a length of stone paving which had been placed across the Te Maari Stream (tidal) to allow passage of vehicles. The object which these Natives had in view was to catch a certain kind of eel which attaches itself by suction to rocks and boulders. This eel is a great delicacy to the Natives and they spared no effort in shifting every available rock in the crossing, thus causing damage the estimated cost of repairing which is £50.¹⁷⁷

While the district engineer tended to agree that the matter was one for the police and the county council to resolve, he added the caution: 'it is just possible that the Natives may have some right to fish for eels in this stream', and suggested the Native Department look into the issue before responding to the local body. This was relayed back to Under Secretary for Native Affairs, Judge RN Jones, who had no such qualms: 'The Maoris have no fishing rights which would interfere with the user of a public road or permit them to damage such road.'¹⁷⁸

One aspect that has not been addressed in this report is the extent to which local government jurisdiction impinged on existing Maori authority over local affairs and local resources, both as wielded in traditional terms, or through government-sanctioned committees and councils. The competing jurisdictions between local government and the Maori Councils set up under the 1900 Act for example, certainly played its part in undermining local Maori control. However the larger issue of the Crown's failure to recognise, sanction, and support Maori initiatives for local self-government have been left for the Political Engagement Report.

It is an obvious point that local bodies were primarily interested in promoting the interests of the new farming communities or, in the towns, those of commerce. The participation of tangata whenua in the developing pastoral economy is difficult to gauge. Stout and Ngata singled out Maori dairying initiatives near Te Kuiti, which by 1907 supplied three-quarters of the local factory's butterfat, as the only instance

¹⁷⁶ *King Country Chronicle*, 15 July 1914; DB:2788

¹⁷⁷ Auckland district engineer, Public Works to Permanent Head, 9 May 1927, MA 1 1375 1925/477; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1925-477

¹⁷⁸ Under Secretary Native Department to Raglan County Council engineer, 18 May 1927, in above

of ‘profitable occupation’ in the district. Arthur Ormsby, younger brother to John, who farmed land at Te Rauamoia made the public claim that: ‘[a]lthough no authentic data can be obtained, still, I have no hesitation in asserting that two thirds of the local revenue on the Te Awamutu-Taumarunui section of the railway comes from the Maoris directly, or from the products of their lands.’¹⁷⁹ According to Waitomo County Council’s annual report of 1914, there were 78 paid-up Maori ratepayers in the county, occupying 9101 acres and contributing £71 8s 5d in rates. These may have been the dairy farmers of 1907, and the fact that they were now paying rates is highly significant because it suggests that where Maori could afford to pay rates, they did. This contribution however was overshadowed with the contrast of a further 625 Maori properties on the county’s valuation roll, amounting to 144,803 acres, that were not returning rates.¹⁸⁰ This liability over unproductive land, it is suggested, was both ludicrous and cruel.

Away from the railway line, a concerned settler’s request in the winter of 1911 drawing Native Minister Carroll’s attention to the plight of pioneer Maori farmers at Oparau, reinforces the limited extent of Maori participation in the new order within Kawhia County:

Mr. Te Aho Porima, Hori Te Mainu Huirua, & others have settled on their land here and started farming. Their land is part of rototi at the junction of the Okupata & Mangapapa streams. They have no surveyed road. If you will kindly instruct the Govt Surveyor Mr Newton (who is at present at Marakopa) to lay off a road for them you have their gratitude. A road can be laid off that will do without much work. At present they have no outlet & are working at a disadvantage ... they are among the few natives here who have left the old communal system & taken to farming like Pakehas, so they deserve help. ...The Typhoid fever which has been at Taharoa & Kawhia has made several other families who have land out this way, wish to get started on it.¹⁸¹

The one-line response from the Minister informed the settler that the matter was one for the Native Land Court, a singularly unhelpful remark in the circumstances.¹⁸²

In addition, while it has not been the subject of specific research for this project, it should be remembered that the 1918 influenza pandemic hit Maori communities of Te Rohe Potae particularly hard. Family stories passed down to the author relate not just of death and illness, but also of the disruption of farming activities and an increase in land sales.

¹⁷⁹ A Ormsby, ‘Government Dealings with Maori Lands: from a Maori Point of View’, *King Country Chronicle*, 7 June 1907; DB:2753

¹⁸⁰ *King Country Chronicle*, 22 July 1914; DB:2789-92

¹⁸¹ GH McKenzie to Minister Native Affairs, 26 June 1911, MA 1 1055 1911/386, ArchivesNZ Wgtn; DB:89-90

¹⁸² Under-Secretary to GH McKenzie, 12 July 1911, in above; DB:91

2.3 Conclusion

The study of early local government activities in this Inquiry District reinforces the fact that local government as created by Parliament was a largely Pakeha affair, administered by and accountable to Pakeha ratepayers. The apparatus of early road boards gave new farmers the means to maintain local roads in defined districts, and to receive provincial and government subsidies to augment their modest income. In this period parallel Maori interests were watched over by the Native Department, who disbursed grants in lieu of rates through the district road boards to assist with works that were seen to benefit Maori. The missing dimension in this study is the degree to which local Maori control, through committees or otherwise, was exercised and supported by government. This will need to be drawn from the Political Engagement report.

Shortly after the establishment of the county unit, this supervisory role in local affairs on the part of the Crown was brought to an end. From 1882, Maori land considered to be served by a county road was now liable for rates, an arrangement that replaced earlier government grants on their behalf. In this first step towards amalgamation however, the government ensured only that local authorities would receive their revenue: no corresponding measures were taken to adapt the system to the Maori realities of multiple ownership and occupancy, or to assist communities with farming expertise and capital to enable the rates to be paid, or even to first check whether the land now deemed to be liable was capable of production. The result of such arbitrary and short-sighted law-making was predictable: widespread default. The withdrawal by the government from any intermediary role led to the equally predictable pressures within local communities over the rating of Maori land.

Within Raglan County, the government responded to this pressure by purchasing Maori land. The success of settlement, it was argued, depended on the appropriation of communal Maori lands and their transformation into economically productive and individually occupied units, capable of bearing the property tax which in turn financed the necessary communications to facilitate further development and wealth. For the first two decades of the twentieth century this was the county council's publicly lauded means to solve the 'Native Rating Question'. In this it was aided and abetted by Native Ministers Carroll and Herries.

Within Te Rohe Potae however, things were a little more complicated. Pakeha settlement here was predicated on a series of agreements negotiated between hapu and government officials in the 1880s, including the promise that in opening the district to roads and rail, unproductive, unleased and unsold Maori land would not be liable for rates. Two decades passed between the time of these negotiations and the establishment of local government in the region, a period in which the Crown invoked a monopoly right of purchase to secure as much land as possible 'at the best possible bargain for the State'. This report

does not profess to be an authority on the Crown settlement of Te Rohe Potae, but research has disclosed a number of disquietening features that should be followed up. Principal among these is the apparent lack of any over-arching or rational design to settlement, other than the apparent zeal to purchase as many land interests as possible. The impact on eventual local government as a result was two-fold: the placement of settlers onto isolated Crown enclaves which made access difficult and expensive; and the large proportion of unoccupied Crown land within the local body district which was not liable for rates.

The establishment of local government in the counties of Kawhia and Waitomo coincided with Parliament extending rating liability over all Maori freehold land. Not only was this in breach of earlier promises to tangata whenua, it was ludicrous and cruel in the circumstances. To the comments above regarding the equity of wholesale liability to lands that were not economically productive, or in some cases not capable of being economically productive, can be added the restrictions preventing Maori within Te Rohe Potae from dealing with their lands, from raising capital that might have been used to begin farming. Almost overnight, Maori were faced with an annually recurring tax on every titled acre of their land and yet actively stymied by government land legislation in turning this liability into an asset. Rather than extend assistance to include them in the new order, evidence suggests that the Crown's dilatory provision of access to its own settlers was motivated by its reluctance to increase the value of Maori land, with its own ongoing land purchase aspirations in mind.

It becomes difficult to avoid the conclusion that the widespread rating liability over Maori land was indeed a Crown ruse to appropriate land. It is also clear that the forced vesting of Maori land for settlement under the Native Land Settlement Act 1907, like land purchase, was primarily intended to bolster the rating base of the new local government entities and so ensure their success. The great irony of this period of colonial expansion was that in its haste to obtain 'the best possible bargain', the Crown's indiscriminate purchasing policy; the alacrity to vest lands out of Maori control; and its apparent determination not to extend the conveniences of settlement to Maori, all contrived to sow the seeds for later local government hardship. Could a more inclusive, less avaricious approach to settlement have been devised?

Contemporary arguments that the interests of national wellbeing justified such appropriation fall down in the light of subsequent land use, particularly the large areas of vested lands which remained unoccupied, together with the large areas of Crown lands that remained similarly unutilised. It is also perhaps possible to argue that the appropriation could have been mitigated by government measures to ensure Maori participation in the new pastoral economy. Access to cheap state capital finance (already available to Pakeha), freedom from restrictive land legislation (with the same proprietary rights as Pakeha); provision

of the requisite road access (guaranteed to Pakeha); guidance in modern farming methods and all within a tribal framework of supervision, were all proposals emanating from Ngati Maniapoto leaders at the time, and endorsed by the Crown's own commissioners, Stout and Ngata. None of these were provided by the Crown.

In the context of the Tauranga Inquiry District, the Tribunal has found that the imposition of rating liability on Maori land was in breach of the Treaty principles of partnership and equity. In view of the considerable financial benefits the Crown derived from Maori land in the Tauranga district to fund central government activities, the Tribunal considered the imposition of a further local tax in order to provide services that, at the time, largely benefitted the Crown and the settler population could not be regarded as taking account of the needs and legitimate interests of the tangata whenua partner. It also found that bringing Maori up to full rating liability in the space of three decades to be inequitable in the light of the very different histories and circumstances of the two populations.¹⁸³

In our view, the manner in which the Crown introduced rating on Maori land not only breached the principles of the Treaty but had unfortunate downstream effects. We believe it engendered in Maori an early lack of confidence in local government – a lack of confidence which was only exacerbated by the effects of subsequent legislation. At the same time, it led to local authorities – and indeed the general populace – developing a perception of Maori as non-cooperative because they defaulted on rates. We believe that situation was to sour relations between local government and Maori, and between the Pakeha and Maori communities, for many decades to come.¹⁸⁴

This last observation seems particularly apt in the light of the promise held out by the settlement of Te Rohe Potae. Arthur Ormsby had been brought up on the Maori side of the aukati. A farmer on lands at Te Rauamo, he had supported the move to county status in 1903. Like his elder siblings, Ormsby posited the 'local government' issues – those of rating, of road access, and of noxious weeds – within the wider framework of settlement, and just four years on his anger at the turn of events within Te Rohe Potae was palpable:

The Pakeha settlers of this district now begrudge us the use of THEIR ROADS because we are not ratepayers. That this is a real grievance to the bona fide settler, no one can deny, but unfortunately it is being made a lever, by land speculators, to force on the Government to further acts of spoliation. I would remind these settlers that up to the present time, they have, on the average, not paid more than 1½d per

¹⁸³ Waitangi Tribunal, *Tauranga Moana, 1886-2006* online at www.waitangi-trbunal.govt.nz, p 380

¹⁸⁴ *Ibid*, p 381

acre in rates, while we, during the last twenty years, have been practically robbed by the State of at least five shillings per acre on about two and a half million acres acquired, or to put it in other words, the difference between the prices paid for our land, and their true value, would have made and metalled all the roads in this district. If the settlers would try and make the State disgorge some of its illgotten gain, and have it spent on the roads, it would save them much hardship, and we would come by some of our own.¹⁸⁵

By 1915 it can be said that the edifice of local government within Te Rohe Potae was firmly in place. The shakey start to local independence as a result of central government bungling had been given the helping hand of further land appropriation from Maori, while bestowing on them few benefits. In these times of great optimism, the needs of settlement for the most part were met by loading lands with debt, the special rates on the lands affected to be the security for such loans. The inclusion of Maori land in these special rates districts from 1910 sowed the seeds of future pressure for the payment of rates which intensified once the debt-inspired economic bubble burst. The extent to which Maori landowners consented to this debt, or benefited from the expenditure, is considered in Chapter 9.

¹⁸⁵ *King Country Chronicle*, 31 May 1907; DB:2751

Chapter 3

The Cure of Consolidation, 1915 – 1933

Pressure on a rates return from Maori land increased after the First World War, fuelled by economic recession in the wake of large local body spending. In this period the government came under increasing pressure to either give substance to the principle of equal liability, or to assume the cost of non-payment as a national liability. Maori Affairs files attest to the power of the local body lobby, not only through the representative national local body associations which met annually to compose remits for the government's consideration, but also through associated organisations which represented the same interests: the Farmers' Union and the National Efficiency Board. The Native Rating Act 1924 which enabled rates arrears to be charged against Maori land did little to appease local government.

This period of 'settling in' within Te Rohe Potae was marked by rhetoric that conveniently downplayed the basis of Pakeha settlement in the first place: 'promises were made to the Maoris before the Main Trunk line was carried through the King Country, but at that time it was not realised what trouble would ensue by adhering to these promises.'¹ In 1927 Prime Minister Coates echoed the sentiment, noting whimsically that such promises 'seemed to be a very simple thing to say in those days ...'² Faced with the obdurate Maori refusal to pay rates on unproductive rates on the basis of historic undertakings, the more strident local body councillors argued that the needs of growing settlement outweighed any such considerations. As the mayor of Te Kuiti put it:

The Treaty of Waitangi was always the answer to any suggestion of remedying the situation ... but domestic necessity is paramount, and we would be justified in taking over these lands to make settlement possible, and it is only by driving home this fact to the Government that any results can be obtained. If a modicum of justice could be obtained the incubus of the native lands removed there would be a great future ahead of this district.³

¹ *King Country Chronicle*, April 1928, cited in Hearn, p 51

² 'Maori Deputation from Te Kuiti ...', 1 September 1927, MA 31 4*4, ArchivesNZ Wgtn; DB:902

³ WJ Broadfoot, quoted in *King Country Chronicle*, 23 June 1927, in above; DB:890

The outcome was consolidation: a multi-stranded remedy based on the rationalisation of Maori freehold title, the classification of unproductive lands and State-assisted land development. This chapter traces developments within Te Rohe Potae from 1915, exploring the causes of local body frustration at the inability to collect rates from land Parliament had decreed to be rateable property since 1910. It then reviews the promises consolidation held out to both local authorities and to local Maori.

3.1 The Lien System

3.1.1 *Inaccurate rolls*

One of the earliest issues to be brought to the Native Minister's attention from county councils throughout the North Island was the inaccuracy of the valuation rolls on which the rating assessments were based. It was an old complaint. The rolls were prepared by the Valuation Department which, in the case of Maori land, in turn relied on information supplied by the Native Land Court with regard to changes wrought by its orders (such as partitions), and from the Maori Land Board with regard to alienations by lease or sale. From 1913 these entities were practically the same, the Maori Land Board in any district being the judge and registrar of the Native Land Court.

Amending rating legislation of 1913 had put the onus on the registrar to keep a record of multiply-owned Maori land and the respective nominated owners and occupiers for rating purposes, and to advise both the Valuer General and the relevant local body of any changes either to the named individuals or the status of the land itself, through partition or alienation. By 1915 standard forms had been printed to facilitate the process, but the standard procedure for supplying this information was less than clear. An exemplar of best practise, in the case of the Tairāwhiti district the district valuer was given access to board deliberations at the conclusion of each meeting and took note of confirmed transactions. Periodic visits were also made to the Court to obtain particulars from the monthly update of partition orders.⁴ In other districts, returns using the standard forms were forwarded regularly by the land boards to the district valuer, who would then update the rolls. But even within the Native Department there was confusion as to process. In October 1915 the Under-Secretary claimed that it was the responsibility of the registrar in each district to correct the latest rolls before these became the basis for rating. This prompted a protest from the registrar of the Waiariki District Maori Land Board, that such a course would require another full-time experienced clerk.⁵ Whether as a result of over-work or war-time staff shortages, in the case of the Waikato-Maniapoto District Maori Land Board its failure to update the Valuation Department was the

⁴ Registrar, Tairāwhiti MLB to Under-Secretary Native Department, 29 September 1916, MA 1 401 20/1/1 part 1; Towers DB:489

⁵ Registrar, Waiariki MLB to Under-Secretary Native Department, 2 September 1916, MA 1 401 20/1/1 part 1; not in DB

subject of ongoing local body complaint from 1914, notwithstanding the fact that the offices of the two entities shared the same building in Auckland.⁶ In October 1914 for example, the district valuation officer reported that returns from the board had not been received ‘for some considerable time’. It transpired that some 300 returns for the Waikato-Maniapoto district had been prepared, but not forwarded for correction.⁷ This casts a somewhat different light on the chairman’s public claims at this time regarding the listed owners and occupiers of the Maori assessments within Waitomo County. The same report was made two years on, prompted by complaints from the Waitomo County Council that the Pakeha occupiers of Maori land within the numerous special rating districts were not listed on the latest valuation rolls. The failure of the board to regularly update the Valuation Department was enabling speculators to escape rating obligations: ‘A common practice is for a speculator to get a lease or purchase of Native land and re-dispose of it to a genuine settler in a year or two’s time often leaving the latter to pay back rates.’⁸

Advice from the Maori Land Boards generally informed the roll in terms of new Pakeha occupancy as a result of alienation, whether by lease or sale. Native Minister Herries claimed that Waitomo County Council’s complaint was met in part by another 1913 clause that made occupiers of Maori land liable for rates regardless of whether their lease was lawful, or their names entered in the valuation roll. Of long-standing concern to established counties like Raglan however, and of growing concern to the King Country local authorities, were the continuing deficiencies on the rolls with regard to Maori occupiers and owners.

In July 1918 Clifton County Council complained that the shortcomings in the county rating roll with respect to Maori land – said to be ‘some of the richest and most valuable land’ – was costing the county ‘large sums of money’ each year.⁹ Public Trustee administration over much of this land had recently ended, the titles having been individualised and returned to Maori ownership – a development which had not been updated on the valuation roll. When the matter was referred to the Wanganui Court, the registrar balked at the work the request would entail, protesting that the district valuer had access to the information in Auckland. Despite the statutory directive to keep a record of multiply-owned Maori land and the respective nominated owners and occupiers for rating purposes up to date, the registrar patently lacked the resources to do so.

The position is unsatisfactory, but unless special officers are employed for this purpose the work cannot be done by the ordinary staffs. During the war it has been

⁶ See registrar Waiariki MLB to Under-Secretary Native Dept, 26 September 1918; MA 1 401 20/1/1 part 1; DB:175

⁷ Valuer General to Under-Secretary Native Department, 20 February 1915, in above; DB:8/156

⁸ Valuer General to Under-Secretary Justice Department, 1 September 1916, in above; Hearn DB:8/21

⁹ Clifton County Council clerk to Valuer General, 15 July 1918, in above; DB:168

difficult to keep current work going. Apparently some of the local bodies want the Native Land Court to supply them with the names and addresses of the Native owners, and also to nominate two names to be inserted in the roll. I need hardly say that this is not practicable, nor can the Court be responsible for correct addresses of the Natives. They have no means of knowing.¹⁰

Waitomo County Council's bid in 1921 to improve the collection of rates from Maori owned and occupied lands reveals that the parlous state of its rolls had not improved. Its query to the Valuation Department was passed on to the Native Department, who received the following advice from the Auckland registrar:

Where Native Land is owned in common the Valuation Department has been supplied with names of owners to be entered on its rolls as names of nominated owners. This information was furnished in special books supplied by the Valuation Department, and I arranged with the Officer in Charge that these books were to be returned periodically for revision, and for the noting of change in ownership by partition, exchange etc. For some time the books were so returned but latterly the practise has been discontinued.¹¹

The registrar maintained that changes of ownership wrought by alienation were periodically supplied to the Department, but denied all knowledge regarding the status of occupation. Endemic inaccuracies in the valuation rolls were singled out by Ngata in 1923 as a major factor behind the non-payment of rates, and one of the recommendations of a subsequent commission of inquiry into non-payment undertaken on the East Coast was 'the substitution of the names of living owners, nominated owners or occupiers on the valuation or rates-rolls in the place of those found to be deceased.'¹² The commission considered that the Native Land Court should be empowered to maintain an accurate valuation roll, recommending a periodic overhaul in open court to establish occupancy and therefore liability. In the event, the ongoing challenge of correctly identifying nominated owners and occupiers was circumvented altogether by Coates' legislation the following year. Under the Rating Act 1924 which became part of the Rating Act 1925, local bodies were no longer required to send demands or sue the owners and occupiers of multiply-held land. Instead, claims for rates were sent straight to the Court, to be dealt with as an application for a charging order on the land. Despite a 1924 directive to registrars that with regard to identifying Maori

¹⁰ Under-Secretary Native Department to Valuer General, 23 December 1918, in above; DB:177

¹¹ Registrar NLC Auckland to Under-Secretary Native Department, 13 August 1921, in above; DB:194

¹² Native Minister to Under-Secretary Native Department, 11 December 1923, MA 1 414 20/1/52 part 1, ArchivesNZ Wgtn; Towers DB:1343

owners and occupiers for rating purposes, ‘every facility should be given to the local body’, the legislation effectively brought an end to any such local body inquiries.¹³

3.1.2 *The liability of vested lands*

Maori land vested in either Maori Land Boards or the Public Trustee (later Native Trustee) was only liable for rates to the extent to which revenue was actually received from the land in the current and following three years. Under the 1913 amendment, any number of vested Maori freehold titles having the same beneficial owners became collectively liable. This meant that revenue from one such block could be used to pay rating liabilities for the others, but the underlying provision remained that the trustee was only liable to the extent of net revenue received. The large area of land vested in the Waikato Maniapoto District Maori Land Board that remained unoccupied soon began to raise the heckles of the affected local bodies. In 1917 Clifton County Council requested to have the charging provisions for unpaid rates extended to Maori vested land.¹⁴ Its claim for rates on such lands had been met with the board response that it had no funds from which it could pay. A similar complaint was made by Kawhia County Council in 1915 with regard to the Taumatotara block: ‘...the Board has never paid any rates up to the present and appears to ignore any demands.’¹⁵ This, it will be remembered, was the block against which the land board had borrowed £7,500 to prepare for settlement. The criticism was countered by the Auckland registrar who explained that only half of the sections in the block had been taken up, and that these occupiers were not paying their rent: ‘Considering that the County has been put to no expense in the settlement of the Block, their charge of £400 seems excessive, especially as the Board has no funds out of which to meet the demand.’¹⁶ The issue was reiterated by the council two years later, when the same response to its claims for rates over vested land was received. Without the second half of equation – of having the lands surveyed and offered for settlement – the forced vesting of huge acreages in the Crown agency to solve the ‘Native Land Question’ was now back-firing:

The position is therefore worse, from our point of view, than if the land were still held by the Maori owners, in which case there is a chance of getting at least some portion of the rates. The result of vesting the land in the Board appears to be to make it practically unrateable, but as it is nominally rateable, the effect is that, among other things, much expenditure (as for instance, Hospital contributions) which is based on the rateable value of the whole County, including these lands,

¹³ Under-Secretary Native Department to registrar Wanganui, 18 September 1924, MA 1 401 20/1/1 part 1, ArchivesNZ Wgtn; DB:201

¹⁴ Clifton County Council resolution, 17 September 1917, in above; DB:159

¹⁵ Kawhia County Council clerk to WT Jennings MP, 9 August 1915, MA 1 1145 1915/2591; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1915-2591

¹⁶ Auckland registrar to Under Secretary Native Department, 7 September 1915, in above

has to be borne by the European settlers who are thus saddled with the share due in respect of the Board's property in addition to their own share. There is in addition, always the roading expenditure which has to be undertaken, largely for the benefit of these lands.¹⁷

Kawhia County Council claimed that the board made little effort to prepare the lands for settlement, or even to collect the rents due on leased land. In its defence, Native Minister Herries claimed that much of the land vested after 1907 had been returned to the owners, and a 'good deal' more sold to the Crown.¹⁸ He also claimed that labour shortages as a result of the war had prevented the boards from opening up more areas for settlement. In October 1919 a Waitomo County Council remit to the Counties Association conference, to have non-revenue producing Maori lands under board control loaded with accumulated rates, was adopted as a recommendation. The association's 'Native Affairs Committee' also recommended that the boards be compelled to form and construct all roads giving access to vested land in a proper and efficient manner, and to the satisfaction of the local body.¹⁹ These were reaffirmed at the Counties' Association conference two years later.

Under the Native Rating Act 1924 the charging provisions of that Act applied to all multiply-owned land, vested or otherwise. In the case of vested land, the Maori Trustee or Maori Land Board had nine months grace to pay, before a charging order could be lodged 'just as if the land were not vested.'²⁰ The trustee remained liable for rates only to the extent of the net revenue received by him from the land, but such revenue could be applied to pay rates arrears of up to four years.²¹

Maori Land Board control of township lands also presented problems vested in the Board were also a Within Te Kuiti Borough, before

3.1.3 Rates recovery

By 1915 the first complaints were also being forwarded about the shortcomings of the lien system introduced in 1913 to recover rates from Maori land. For those councils who had not been put off by the expense of taking legal action, it was soon discovered that the 1913 amendment did not meet the reality that few Maori in fact had registered land titles. Herries defended this criticism with the argument that the clause restricting the provision to a registered title had been made advisedly: 'No lien could be registered

¹⁷ Kawhia County Council clerk to WT Jennings MP, 8 May 1918, in above; DB:162

¹⁸ WH Herries to WT Jennings MP, 17 June 1918, in above; DB:166-67

¹⁹ NZ Counties Association, 1 October 1919, in above; Towers DB:462

²⁰ Under-Secretary Native Department to Rangitikei County Council clerk, 7 August 1925, in above; DB:205

²¹ Section 105, Rating Act 1925

against a Native Land Court title as that is liable to alteration on appeal and by legislation.’²² The demand to have the charging provision extended to Native Land Court block titles was repeated in 1917 by the Hokianga County Council and endorsed by numerous others including Awakino, Raglan and Clifton.²³

In March 1918 Waitomo County Council took up the issue with the Minister of Internal Affairs GW Russell when he visited Te Kuiti. By this time the county had racked up £110,000 of debt, secured primarily by special rates over special districts. Special rates on Maori lands within these districts were said to account for between £800 to £900 of an annual debt servicing of £5000.²⁴ Any shortfall in the special rates had to be made up from the general rates. As set out in the previous chapter (2.2.6), the council had initially discounted charging the unpaid rates because of the expense of doing so. Now that the four-year window for arrears on Maori land was running out year by year, belated attempts to register a lien had been thwarted by the fact that much of the affected land did not have a registered title.²⁵ The approach to the Minister had in fact been a united local body front including the county councils of Waitomo, Kawhia, Awakino and the Te Kuiti Borough Council. In passing on the council’s request for ameliorating legislation to protect its liability, Russell vented his opinion that:

the time has arrived when European ratepayers should not be penalised because of the fact that their lands are adjoining or near lands held by Maoris, more especially seeing that in very many cases the European is improving his land while the Maori is not; settlement on one hand being started, while on the other hand it is being retarded.²⁶

The Washing-up Bill Waitomo County Council was after to protect its liability was turned down by Herries. The following year the council brought a remit to the Counties Association conference to the same effect. The association’s ‘Native Affairs Committee’ duly recommended that legislation be amended so as to enable accumulated rates to be charged against block titles held by the Native Land Court, rather than the registered title.²⁷ To this was lent the weight of a resolution by delegates to the Farmers’ Union conference (held, not surprisingly, on the coat-tails of the Counties Association conference in Wellington). In addition to reiterating the call to have unpaid rates charged against the Native Land Court titles, the union’s voice joined the growing local body refrain that ‘the time has arrived

²² See for example Native Minister to Rotorua County Council clerk, 19 August 1915, MA 1 401 20/1/1 part 1, ArchivesNZ Wgtn; DB:157

²³ See for example Awakino County Council clerk to Native Minister, 28 September 1917; Clifton County Council resolution, 17 September 1917, in above; DB:159-160

²⁴ Minister Internal Affairs to Native Minister, 21 May 1918, in above; Towers DB:481

²⁵ Waitomo County Council clerk to Minister Internal Affairs, 25 July 1918, in above; DB:169

²⁶ Minister Internal Affairs to Native Minister, 21 May 1918, in above; Towers DB:481

²⁷ ‘New Zealand Counties Association’, in above; Towers DB:462

when Native lands served by roads and railways and held by Natives should pay the same taxes as land held by Europeans.’²⁸

Dissatisfaction with the outcome of the recovery method was evident even where counties had been willing and able to lodge liens. Native Minister Herries himself acknowledged that successive charging would, after a number of years, render the land unsaleable. By 1920, having regularly charged the Maori land within its district with rates arrears for the past seven years, Raglan County Council was indeed finding the practice counterproductive:

Every effort has been made by the Raglan County to enforce the payment of rates by natives. The machinery, however, is too cumbersome, and though legal assistance has been obtained, the results have been disappointing. The natives will not pay voluntarily, and really the only remedy the local body has is to incur great expense in registering liens against the land, and this simply means that when a progressive European settler would purchase or lease this land he is faced with such liens, which, in nearly every case, he has to personally lift.²⁹

After seven years of concerted effort the best recovery the council had achieved in any one year was 16.8 per cent return for 1917. Its request to Prime Minister Massey for a change to legislation ‘to directly enforce the payment of rates by natives occupying land and to place them exactly on the same footing as Europeans, as far as possible’ was endorsed by its neighbour to the south six weeks later.³⁰ In the past six years Kawhia County Council had collected a little over one-tenth of the total rates levied on Maori land, and the trend was deteriorating with only 4.6 per cent having been collected for the year just ended.³¹

3.1.4 Maori Council rating

The following year Raglan County Council encountered a possible reason behind the non-payment. At a court hearing at Ngaruawahia on 1 September 1921, the council’s attempt to sue two Maori ratepayers for arrears took a surprising turn.

When the cases were called for hearing yesterday, a Maori called Cooper, who represented himself as the Secretary of King Rata’s Maori Council at Waahi said he wished to appear for the defendants and stated the rates had been already paid and produced receipted accounts in favour of the above defendants for some £90 in the case of Kehi Te Rau and some £9 in the case of Mrs Mahuta which had been issued by him on behalf of King Rata’s Council to the defendants. These receipts were on a printed form and he informed the Court that all Native rates were

²⁸ Dominion secretary, NZ Farmers’ Union to Native Minister, 9 October 1919, in above; Towers DB:461

²⁹ *Waikato Times*, 5 March 1920; not in DB

³⁰ Raglan County Council clerk to Prime Minister, 16 March 1920, MA 1 401 20/1/1 part 1; Hearn DB:8/7

³¹ Kawhia County Council clerk to Prime Minister, 12 May 1920, in above; Hearn DB:8/8

collected by King Rata, not by the County Council and he stated that Statute Law of the Dominion allowed this to be done by the Maori Council. Further he stated that they based their rates as three quarters of what the local body had collected.³²

The 'Mrs Mahuta' referred to was in fact the late king's wife, and the courthouse was said to have been 'filled with natives'.³³ The defendants were told by the court that payment to the Maori Council did not absolve them from the liability to the county council and the case was adjourned for one month to enable them to seek legal counsel.³⁴ In October, judgement was made in favour of the county council.

Raglan County Council had asked the Native Minister for an urgent inquiry when the case was first heard. Not yet six months into the job, Gordon Coates waited until the judgement was made in October before responding. His reply to the county council reflected advice from the stipendiary magistrate hearing the case, that is, that the Department could not intervene to assist the council to recover the rates which had been paid to Te Rata; and that there was nothing to prevent ratepayers paying money to Te Rata's Council. If they had done so by mistake, they should see a solicitor about recovering the amount in the civil court. If the money had been obtained by Te Rata's Council through false pretences, then contributing ratepayers could approach the police. The Native Minister considered that the judicial outcome was sufficient: 'When giving judgment for the Raglan County Council for the full amount claimed from the two Native women, the Magistrate explained the position fully to the Natives and I feel sure that no further payments will be made to Te Rata's Council or Committee in the future.'³⁵ The response left the council unsatisfied. Chairman Campbell Johnstone corrected the Native Minister: the council had not asked the Department to recover the rates already collected by Te Rata's Council – 'Note. There is no legally constituted Maori Council at Waahi' – but to take steps to prevent it from happening again.³⁶ Raglan County Council was in no doubt about the challenge which had been posed to its rating authority, and it wanted it brought to a swift end. After further consideration, Coates' position was unchanged:

It is evident, of course, that such misdirected payments do not relieve the Natives from payment of rates due to your Council. I think the Natives know that that is the position. Te Rata's Council are already aware of the fact that they have no legal authority either under statute or otherwise to collect money from Natives in payment of rates. If Natives are so stupid as to pay their rates to such informal

³² Raglan County Council clerk to Native Minister, 2 September 1921, MA 1 1265 1921/224; Digital DB: ArchivesNZ WgtN/MA 1 files, MA1 1921-224

³³ 'Rates on Native Land: Paid to "King" Rata', *Auckland Star*, 1 September 1921, in above

³⁴ Hamilton stipendiary magistrate, 'Report', 31 October 1921, in above

³⁵ JG Coates to clerk, Raglan County Council, 4 November 1921, in above

³⁶ Raglan County Council chairman to Native Minister, 15 November 1921, in above

Council and not to your Council, I think that demands made by your Council for payment of rates would bring them to their senses and put a stop to such misdirected payments.³⁷

Although the correspondence makes no explicit reference to it, it seems safe to assume that the statutory basis referred to by Cooper in court was the Maori Councils Act 1900, enacted to appease the growing Maori clamour for ‘home-rule’ by promising to confer ‘a Limited Measure of Local Self-government’. Under the Act, Maori councils were authorised to carry out a number of local government functions including dog registration (of dogs owned by Maori); stock branding and control; the regulation and management of eel weirs and fishing grounds; the care of burial grounds; the control of recreation grounds and billiard rooms; the maintenance and provision of village water supplies and sanitation; the regulation of markets and hawkers; and the control of noxious weeds. Section 24 also authorised such councils, subject to the approval of the Governor, ‘to impose a tenement-tax on houses, whares, or Native lands within the boundaries of any Maori kainga, village, or pa’ and to collect the same. Any Maori paying such tenement-tax was to be exempt from paying any local rates.

The government was dismissive about the legal basis of such claims. Earlier in June Maui Pomare MP had received correspondence from a Werereka Rokena of Ohautira, claiming Maori Council authority for rates over Maori land 26,000 acres in extent, based on the seal of the Kingitanga. Rokena gave notice that the Council established by Parliament in 1902 had levied and collected rates on all Maori occupied land, and was contemplating doing the same for Pakeha lessees of Maori land vested in the Land Board.³⁸ Passed on to the Native Department, the letter bears the handwritten note from the Under Secretary ‘This proposal [...] not be agreed to and is not worth considering – Maori Councils except as Health Councils under Dr. Buck are extinct.’³⁹ Rokena was duly informed that ‘after the matter had been carefully considered it was decided that it would not be possible to agree to your proposal.’⁴⁰

The extent of parallel Maori authority operating at this time has not been the subject of this report. The absence of any other records suggests that the Maori Council initiative with regard to rating may have been a one-off reaction to the growing polemic over enforcing rates payments from Maori land, including the legal proceedings taken by Raglan County Council against the late king’s wife. Certainly, the basis of the claim to rating authority was never seriously entertained by the government at this time.

³⁷ JG Coates to chairman, Raglan County Council, 7 December 1921, in above

³⁸ W Rokena to M Pomare, 20 May 1921, in above

³⁹ Note by CB Jordan, on back of above

⁴⁰ M Pomare to W Rokena, 29 June 1921 in above

3.1.5 *Post-war pressure*

The efforts of the Minister of Internal Affairs on behalf of the King Country local bodies in May 1918 coincided with a similar representation by the National Efficiency Board to the Prime Minister, its ostensible interest in the matter being ‘The non-payment of rates by the natives means bad roads; bad roads mean loss of that energy and efficiency so essential for the rapid settlement and development of the districts’.⁴¹ The board was a government initiative, created to consider the efficient use of national resources for the war effort. Chairman William Ferguson alleged that existing provisions for the collection of rates from Maori land were ‘practically a dead letter’, and that in the interests of the Dominion, recovering rates from Maori land should be put on the same footing as privately owned land. Expanding on Russell’s argument that local bodies with large areas of Maori land should not be penalised, the board argued that if policy prevented the government from changing the status quo, the shortfall should be met by the Consolidated Fund:

If the Dominion policy is such that the natives are to be specially treated, then the Dominion as a whole should bear the onus of that policy, and if the natives are to be subsidised to the extent of the rates, that subsidy should be paid by the community as a whole and the Local bodies should not be penalised in districts where there are large blocks of native lands, as they most decidedly are at present.⁴²

Such payments, it was suggested, could be charged against the land and eventually recouped on partition or sale.

Herries response was threefold: he claimed first and foremost that legislation on such a controversial issue would not be introduced to the House during wartime. On the second count he suggested that county councils had ‘not sufficiently used the weapons they already have in their armoury’, and went through the provisions for rates recovery one by one. Of interest to contemporary and future arguments surrounding the utilisation of unoccupied, multiply-held Maori land, was Herries’ opposition on ethical grounds:

Native land being held in common by the owners, who are in many cases not residing on the land and in some cases not residing in the district, has always been treated by the Legislature in a different way to land held in severalty. The owners have no individual rights in the land until their interests are defined and separated. Hence when they cannot individually make use of the land, it has always been considered unfair to treat them as if they were unable to get as much enjoyment out of the land as they could if it was held in severalty. It would be unfair by accumulating rates in the shape of liens on land held in common to deprive

⁴¹ W Ferguson, National Efficiency Board to Prime Minister, 18 May 1918, MA 1 401 20/1/1 pt 1; Towers DB:483

⁴² Ibid

innocent holders of interests residing in outside places, perhaps remote from the block and entirely ignorant of any such charges, of their interest in such land. It would be contrary to the universal policy of all New Zealand Governments to allow Native Land to be sold for non-payment of rates or to be so charged with liens as to destroy the equity of redemption, and thus render a native landless without giving him a chance of occupying the land and getting enough out of it to pay the rates.⁴³

It has to be said that the professed concern for Maori proprietary rights appears in stark contrast to the rationale behind the forced vesting of land not ten years before, not to mention Native Minister Herries' personal interest in the Crown purchase of Maori land to relieve the Raglan County of its rating problems. In his time as Native Minister, Herries had done nothing to provide Maori with the necessary financial capital to ensure the profitable occupation of their lands, and he clearly saw the remedy for local body concerns as further rapid individualisation of title. The question arises too, and not for the last time, that if it was considered by the government to be inequitable to charge unpaid rates against the titles of unoccupied multiply-owned Maori land, why was such land liable for rates in the first place? For its part, the Efficiency Board found Herries' defence of the rights of absentee owners preposterous, and nor did it accept that the answer lay in further individualisation. Ferguson pointed out that Maori land in many cases was already over-partitioned, and further individualisation would be to the detriment of settlement: 'We have been informed that in many cases it would be impossible to lay out a roading scheme which would give reasonable access to the different partitions as cut out by the Court, to say nothing of the expense which would be incurred in attempting to form any kind of a road.'⁴⁴ Herries' claim that local authorities were not utilising the provisions for rates recovery was similarly repudiated, the board pointing out that the very real obstacles to collection was the result of the government policy expressed by the Native Minister. A point acknowledged by Herries, who nonetheless advised the Prime Minister:

It would, in my opinion, be impossible to get the principle of unrestricted sale of Native land held in common for payment of rates through the present House. It would be violently opposed by all the Native Representatives, and by all those who sympathise with them.⁴⁵

⁴³ Native Minister to Minister Internal Affairs, 24 May 1918, in above; Towers DB:476

⁴⁴ Chairman, National Efficiency Board to Native Minister, 4 July 1918, in above; Towers DB:471

⁴⁵ Native Minister to Acting Prime Minister, 15 July 1918, in above; Towers DB:468

To the Efficiency Board's insistence that if government policy was to remain unchanged, all unpaid rates from Maori be charged to the Consolidated Fund, Herries curtly responded that the matter was one for the Minister of Finance, and there the matter was left.⁴⁶

Once the war was over pressure began to mount. The resolutions of the Counties Association and the Farmers' Union of October 1919 with respect to rating have been alluded to above. To these was added the recommendation that the Crown, in purchasing Maori land, deduct the unpaid rates from the purchase price and refund the money to the local authority. In a coordinated campaign over the winter of 1920 county councils throughout the country posted their resolutions to Wellington along the lines of the ultimatum enunciated by the Efficiency Board:

That the Prime Minister be urged by this Council to have introduced the coming Session legislation either:

- (a) Giving Local Bodies full power to enforce the payment of rates by Maoris, or
- (b) Providing for payment of Native Rates by the General Government.⁴⁷

When the question was put to the House in July 1920, Herries responded steadfastly that the current law made provision for the full enforcement of rates payment, and that government reimbursement had been tried in 1882 and repealed six years later because of the cost: 'It was evidently unworkable.'⁴⁸ Three weeks later he fielded a deputation from the Counties Association on the issue. Herries had already sounded out the idea of extending the charging provision to Native Land Court titles with the district registrars and he proffered this possibility to placate the association's executive, while reiterating the government's opposition to having Maori land owned in common sold as a result of unpaid rates.⁴⁹

3.1.6 Waitomo County: the call for 'closer settlement'

The increasing pressure on Maori land, both in terms of enforcing rates collection and the further settlement of unoccupied lands, was to a large degree a reaction of local bodies under stress in a slowing economy. By July 1920 the Te Kuiti Borough Council had overdrawn its overdraft, the 1919/20 financial year having a debit balance of £3655. Struggling to maintain the works already completed – 15 miles of metalled road, 634 chains of drains, 18 miles of water tables and 6 miles of footpaths – the councillors reflected glumly that the borough had progressed too rapidly, 'We're suffering for the sins of our

⁴⁶ 'Non-payment of Rates on Native Lands', 25 September 1919, in above; DB:178

⁴⁷ See for example Clifton County Council clerk to Prime Minister, 15 June 1920, in above; DB:190

⁴⁸ Order Paper, 6 July 1920, in above; DB:191

⁴⁹ 'Rating of Native Lands', 30 July 1920, in above; Towers DB:453

forefathers.’⁵⁰ The table below shows the relative liability of King Country local bodies, in relation to their respective rating base, for the year 1924/25.⁵¹

County	net liability (£)	no. ratepayers	no. rateable properties	rates levied (£)	liability per ratepayer (£)
Raglan	166,833	1,500	2,200	21,976	111.22
Waipa	124,115	2,267	2,778	29,218	54.75
Otorohanga	46,178	1,134	1,556	9,417	40.72
Kawhia	39,383	594	723	5,529	66.30
Waitomo	171,587	1,600	2,250	24,185	107.24
Taumarunui	898	282	420	2,474	3.18

The figures reflect to a degree the different experiences of local government within the Inquiry District. Waipa County’s comparatively high debt was off-set by a large rating base. By this time the county had 60 years of settlement behind it, and a well-developed road infrastructure to service its farming fraternity. Taumarunui County’s minimal liability can be explained by the fact that the county was new. Local government had remained inoperative in West Taupo County until the restructuring of local government in the district in 1922. Access to settlers on Crown land in this period appears to have been provided by the Public Works Department. Of interest is the size of Raglan County’s debt in comparison to its rating base, making it one of the most indebted entities in the district. This is discussed more fully in Chapter 9, but it helps to explain the growing call by the county to be included in subsequent Maori rates arrangements.

Waitomo County’s debt was exacerbated by the fact that only 60 per cent of the rates struck in any one year were collected. In the worsening economic climate, the reaction of the council was to enforce payment. The borough councillors at the July meeting were informed by the mayor that measures had been taken against the defaulters: ‘We’ve sued every one of them, and taken every step to enforce payment. We have collected a larger portion than ever was secured before, and have secured the balance.’⁵²

⁵⁰ Reported in *King Country Chronicle*, 15 July 1920; DB:2795

⁵¹ *Local Authorities Handbook of New Zealand*, 1926, p 142, 154-5

⁵² *King Country Chronicle*, 15 July 1920; DB:2795

In the same week editorials in the *King Country Chronicle* entitled ‘The Burden’, attributed the counties’ straightened financial circumstances in the district on ‘the heavy weight of Maori land upon their backs.’⁵³ Attention was drawn to the 85,508 acres of Maori land listed in the valuation rolls of Waitomo County, with a capital value of £432,729. This gave rise to the first objection: that the county’s annual levy to the Waikato Hospital Board was calculated on the gross capital value of rateable property, including the value of Maori land from which no rates could be collected. It was an old complaint exacerbated by recent heavy increases in the hospital levy – an annual charge of £2248 by 1921 – for which Waitomo County and Te Kuiti Borough Council had introduced a separate rate. An associated grievance was that the shortfall not paid by Maori – some £225 – had to be made up from the general fund.⁵⁴

The Maori rates default was widespread: of the £1734 of total rates levied in the 1919/20 year, £59 had been paid, some 3.5 per cent.⁵⁵ Again, the second and more pressing grievance of the Waitomo County Council was the impact of this default on debt repayment for capital works. With regard to the Mairoa special rating district for example, some £23,600 had been spent on permanent road works, half of which had been borrowed. Maori land accounted for 24.7 per cent of the rateable property, attracting £121 of the £784 levied annually to pay back the loan. Already arrears over four years from Maori land stood at £470, ‘so that if the same conditions apply until the expiry of the Loan a further thirty-two and a half years this Native Land will owe Special Rates amounting to £3,800 which the Europeans are paying each year through the medium of the General Rate.’⁵⁶ That being the case in one special rating area, the newspaper argued, the difficulties facing a county containing several such districts were apparent. ‘It means that each loan secured by a special rate in a special area, will result in another demand upon the general account, so reducing the council’s power to maintain its roads and bridges in proper order.’⁵⁷ A second example, the Hangatiki-Waitomo special district, was included in the county’s submission to the government. Of interest is the fact that Maori land within this special rating district represented £14,744 in the total capital value of £68,793 – some 21.4 per cent – but was levied 42 per cent – £53 of the total £126 – of the annual repayments on the metalling loan.⁵⁸ To the injury of having to make up shortfalls in the special rates from the general funds, was added the perceived insult that Maori landowners were benefiting from the increased value wrought by local government works:

⁵³ *King Country Chronicle*, 20 July, 22 July 1920; DB:2797-2800

⁵⁴ ‘Waitomo County Council’, nd, MA 31 4*4 special file 138, ArchivesNZ Wgtn; DB:845-46. The information forwarded to government was repeated in the *King Country Chronicle*, 22 July 1920

⁵⁵ *ibid*

⁵⁶ *King Country Chronicle*, 22 July 1920; DB:2799-2800

⁵⁷ *ibid*

⁵⁸ ‘The Road to the Tourist Resort, Waitomo Caves’, MA 31 4*4; DB:848

The European Ratepayers are not only loading their own lands through the medium of a Special Rate for development purposes, they are also loading their lands to enhance the value of these Native Blocks. The proof of this can be gathered from the fact that assuming the original value of these Native Lands was 25/- per acre, the total Capital Value would amount to £106,885, the development of the County has increased this by £325,844, making the total £432,729.⁵⁹

Maori rates accounted for about 10 per cent of the county rates revenue.⁶⁰ In good times, non-payment from these lands was an irritant, but it did not threaten the well-being of local government. Economic recession on the other hand seriously undermined the assumptions on which a great deal of local authority borrowing had been based. The 1921 slump hit King Country ratepayers hard. Local historian Vaughan Morgan records that of the 19 telephone subscribers along the coastal road in 1919, just three remained by 1922.⁶¹ As noted above, in the 1922/23 year the Waitomo County Council saw a 60 per cent default on rates, causing the council to severely curtail maintenance work and to initiate steps to enforce payment: ‘the time has come when the council will have to use its full powers to collect all rates, for its financial position renders this inevitable.’⁶² Many farmers, among them newly established returned soldiers, simply walked off the land. During the same period soil fertility diminished, pastures deteriorated and the secondary growth of fern and scrub – and noxious weeds – took over. The situation was made more acute as a result of local government restructuring in 1922 which saw the county’s most productive dairy lands to the north, and the best of the district served by roads to date, constituted as the new Otorohanga County. As well, to the south-west the short-lived Awakino County was subsumed within Waitomo County. Awakino County had only been declared operative in 1913 and in that seven years had borrowed £30,460 to develop the local road infrastructure in 18 different special loans. At the point of amalgamation, the county was still relatively sparsely settled with a modest income and expenditure of £4240, and over £3512 in outstanding general and special rates.⁶³

It is into this environment that the Te Kuiti Chamber of Commerce, in cohorts with the borough and county councils, organised a three-day parliamentary tour through the district in May 1923. The resident engineer who tagged along described its purpose as ‘giving Members of Parliament an insight into the difficulties which this part of the Country had to put up with on account of the handicap imposed by the Native Tenure and its ramifications.’⁶⁴ Over the three days the 15 MPs, among them future Prime

⁵⁹ ‘Waitomo County Council’, nd, MA 31 4*4; DB:845-846

⁶⁰ *King Country Chronicle*, 26 June 1923; DB:2801-02

⁶¹ V Morgan, *A History of Waitomo: Maori and Pakeha side by side* (Hamilton, Outriggers Publishers, 1983), p 102

⁶² ‘County Finance’, *King Country Chronicle*, 28 June 1923; DB:2802

⁶³ Awakino County Council balance sheet, 31 March 1921, Waitomo DC; DB:2510

⁶⁴ Resident engineer to Under-Secretary Public Works, 7 May 1923, MA 31 4*4; DB:882

Minister Savage, were taken east – to the ‘vast extent of undeveloped country ... and also the large areas of unoccupied or at least unleased native lands’ – and also south and north in Waitomo County, ‘the idea being ... to demonstrate to the party to what an extent this land can be improved and is capable of closer settlement when properly taken in hand.’⁶⁵

The tour was concluded by an evening meeting at the Te Kuiti Borough Council Chambers on 3 May 1923, where former Mayor GP Finlay (of Broadfoot & Finlay, county solicitors) summed up the ills of ‘nativitis’. Disavowing any speculative motives or intent to do Maori an injustice, Finlay identified the issue facing the district as one of closer settlement, and Maori tenure as inimical to such aims:

Native ownership is based on the barbarian custom which existed before the white man came here; it is an anachronism if that old system is applied to land tenure under modern conditions, and it will cause trouble. It must go whether that communal ownership is native or European, because it is first and foremost the most rigid bar to closer settlement.⁶⁶

The problem posed in Waitomo, Finlay went on, was ‘the roading of a roadless district’, made impossible by the large tracts of unoccupied Maori land which did not return a rate (the irony of the statement apparently going unremarked). Finlay touched on rates collection (‘They had a principle, but they wanted workable machinery’) while other speakers voiced more drastic measures: ‘If the native could not pay in cash, let him pay in kind. Let them take his land in payment and cause it to be brought into immediate productivity.’⁶⁷ What is clear however is that local body politicians had wider objectives in mind, including Crown settlement of unoccupied Maori land – through freehold rather than lease – and with the attendant costs such as access and fencing to be paid for by the transfer and sale of further land. James Boddie, long-standing Waitomo County councillor, called on his parliamentary audience to consider formulating an immigration and settlement scheme for the district.

Maori had become the scapegoat for the county’s financial woes. On reflection it seems odd that so much was made of Maori default when the overall county collection at this time was still only 64 per cent. Much of the land that lay unproductive was not in Maori occupation. Rather, when Boddie, Broadfoot and others subsequently formed themselves into a ‘sub-committee’ to formulate plans for ‘closer land settlement’, many of the blocks they identified as ideal for further Crown subdivision were ‘held by men

⁶⁵ Ibid

⁶⁶ *Auckland Star*, 4 May 1923 in MA 31 4*4; DB:881

⁶⁷ *ibid*

who are not in a position to develop them'.⁶⁸ Yet in JC Rolleston's address to the House the same week, the Member for Waitomo again pinpointed unoccupied Maori land as the root of the county's troubles.

the Government should bring into cultivation the waste land of the Dominion before it considered the breaking up of established estates. ... Such vast areas of unoccupied, uncultivated Native lands were a menace to European settlement. Local bodies were confronted with tremendous difficulties when they had large areas of Native land in their district. ... The time had arrived when Natives should be put on exactly the same footing as Europeans.⁶⁹

Within the borough of Te Kuiti too, defaulting had become increasingly serious from the 1916/17 rating year, the arrears rising to £974 for 1921/22.⁷⁰ Throughout this period, the township lands were still vested in the Maori Land Board but liability for rates rested with the occupiers, and the schedules provided by the town clerk reveal that the defaulting ratepayers were primarily Pakeha. It is a somewhat risky and crude task to categorise people into ethnicities on the basis of their surnames, and to decide into which category surnames such as Hetet, Ormsby and Turner should fall. Nonetheless, with this qualification in mind, of the 169 assessments in the borough for which rates were not received in the 1921/22 year, six were held by occupiers with recognisably Maori names, and a further 23 assessments listed with occupiers bearing family names which may have meant they were Maori.⁷¹ Only three sections were unoccupied, leaving the residual liability with the Maori Land Board. The defaulting occupiers for the balance – 137 assessments, or 81 per cent – bear Pakeha names. Despite all the grandstanding by borough politicians, the financial straits the council found itself in were patently not of Maori making.

The councils' initiative hosting the MPs prompted an inquiry from the Native Minister, now Gordon Coates, to the district registrar seeking details of Maori land ownership within Waitomo County.⁷² From Maori Land Board records, 487 blocks were identified. Twenty of these were said to have timber or other rights which made occupiers liable for rates; 22 were burial grounds; 174 were owned by single owners, and of the balance of 271, a further 91 were owned by just two owners. Of the 4454 acres of land vested in the Maori Land Board at this time (about 5 per cent of Maori land within the county), the registrar identified five blocks vested under Part XIV that were unleased, three of them because of lack of access. One was on the market, and another had been abandoned.⁷³ This information from the registrar –

⁶⁸ *King Country Chronicle*, 23 June 1923; DB:2803

⁶⁹ *Ibid*; DB:2804

⁷⁰ 'Summary of Rates Outstanding on Sections Within the Township of Te Kuiti', MA 1 1292 1922/208; Digital DB: ArchivesNZ Wgtn/MA files, MA1 1922-208

⁷¹ I have included Ormsby, Hetet, Turner, Edwards and Quinn family members in this category. Schedule in above

⁷² Under-Secretary Native Department to registrar Auckland, 30 May 1923, MA 31 4*4; DB:884

⁷³ Registrar Auckland to Under-Secretary Native Department, 19 July 1923, in above; DB:885

particularly the large number of titles in sole ownership – tended to confirm the Native Department’s view that ‘most local bodies do not know their present powers’, a reference to the provision to sue for rates from Maori land owned in severalty on the same basis as European land.⁷⁴

By 1924 economic conditions had improved, although Waitomo County had to limp along on arrears payments until the rates fell due in March. Legal action taken to recover outstanding rates had resulted in the sum of £2458 being recovered from the State Advances Office as first mortgage of affected land.⁷⁵ In addition, in March 1924 it received the welcome advice from the commissioner of Crown lands that the government would pay the rates of defaulting soldier settlers on a case by case basis, and make a compromise payment for the rates from abandoned soldier assessments.⁷⁶ With regard to Maori rates, the country solicitors reported that judgements had been obtained against ‘a large number of natives’, who in some cases had paid the amount on the issue of a summons.⁷⁷ In other cases a distress warrant against individual owners had resulted in payment. On the whole however, the recovery provisions against Maori land had proved impossible owing to the fact that most of the titles were not registered. The £10,770 of arrears from Maori assessments within the county calculated at the end of the rating year prompted the local bodies into further action. In June 1924 another conference was staged in Te Kuiti to focus once again on the problems associated with Maori land. Hosted by the Waitomo County Council, the Te Kuiti Borough Council, and the Te Kuiti Chamber of Commerce, it was a well-attended gathering of county council delegates from Raglan, Waikato, Kawhia, Waipa, Otorohanga, Taumarunui, Whangamomona, Clifton, Waimarino, Kaitieke, and others from even further away, as well as the Taumarunui Borough Council and Otorohanga Town Board. One outcome of the conference was a detailed petition running to over seven type-written pages, essentially calling for the Crown settlement of Maori land.⁷⁸ It was, in effect, the culmination of planning by the lobby for closer settlement begun the year before. Rates from Maori land should be paid by the Crown, to be recouped in land on the same basis as survey liens. Maori land should also be charged with a proportion of road formation costs, to be recouped in a similar way. Noxious weeds on Maori land should be cleared by the Agricultural Department and the costs recouped, once again, in land. In a bid to encourage closer settlement, it was argued that the existing leases of large Maori blocks lying undeveloped through want of finance should be surrendered to enable closer subdivision by the Maori Land Boards – without requiring the consent of the landowners. Later, the petition argued that these vested leased lands be converted to freehold, with the Crown acting as

⁷⁴ ‘Waitomo County: Native Rates’, in above; DB:887

⁷⁵ *King Country Chronicle*, 17 April 1924; DB:2810

⁷⁶ *King Country Chronicle*, 18 March 1924; DB:2809

⁷⁷ *King Country Chronicle*, 17 April 1924; DB:2810

⁷⁸ Petition of Waitomo County Council and others, June 1924 in MA 31 4*4; DB:867-873

middleman where the lessee was unable to afford to purchase outright (along the lines of the recent conversion of native township leaseholds). In assessing the unimproved value of Maori land for the purpose of such purchases, it was argued that the proportion of unpaid special rates should be deducted from the government valuation. The solution to the problems facing King Country local bodies, in the opinion of these authorities themselves, was clearly the transfer of land from Maori tenure into Pakeha hands.

3.2 Towards the 'Profitable Occupation of Native Lands'

Gordon Coates took over from Herries as Native Minister in March 1921. In this portfolio he seems to have been receptive to taking advice from his Maori colleagues: a meeting to discuss Maori Affairs minuted in July 1923 reveals Ken Williams as the only other Pakeha MP present. He was also increasingly wooed by Ngata to consider development of Maori land as the solution to the issue of rates. By this time Ngata had begun to implement the consolidation of land titles, coupled with land development financed from Native Trustee funds, to kick-start a Maori dairy industry on the East Coast. He was present when Coates was faced with his first local body delegation on the subject of Maori rates in August 1923 and he took the opportunity to point out the inequalities Maori were working under, in terms of access to capital finance for example, in developing their land. He also signalled the other half of the consolidation equation in terms of rating, the classification of lands on the basis of their ability to pay: 'A good deal of writing off would have to take place', Ngata was reported to have told the delegates, 'they could not get blood out of a stone.'⁷⁹

Ngata's suggestion that a commission be established to look at the causes of non-payment in particular districts was subsequently adopted. He was a member of the 1923/24 commission which inquired into the issue in the counties of Matakaoa and Waiapu on the East Coast, the location of his consolidation and development experiment.⁸⁰ The recommendations of the commission, which placed the Native Land Court at the centre of rates collection, were largely adopted in the subsequent Native Rating Act 1924. The commission argued against the sale of land as a means to enforce collection, although it recommended charging the unpaid rates against the land, to be ultimately enforced by the appointment of a receiver with power to lease for ten years. This was based on the premise that the 'risk of ultimately losing some of their lands should however, be ever present as a spur to the owners to arrange the

⁷⁹ 'Native Rates: Losses by County Councils, Clothing Lands with Titles', *Evening Post*, 9 August 1923 in above; DB:852

⁸⁰ Discussed fully in Towers, 'Rating on the East Coast', pp 123-36

occupation or disposal of their land to meet the obligation.’⁸¹ Ngata’s influence over the commission is reflected in the finding that:

The only solution of the Native rating problem must be bound up with the profitable occupation of Native lands, or the exemption of lands found to be quite unsuitable of settlement, or not likely under the best conditions to bring in any revenue. The threat to charge lands and ultimately to take portions of the same for rates must be used to force these lands into profitable occupation or the sorting up of those unfit for use from those which are suitable.⁸²

It is important to note the two prongs of what came to be associated with consolidation: on the one hand the development of suitable land into productive economic units, and on the other the exemption of Maori land deemed to be unsuitable for development. It is clear that these areas – ‘lands unfit for settlement and the lands that the owners should be encouraged to retain in forest for water conservation and forestry purposes’ – were over and above those smaller areas of kainga, meeting houses and urupa that were also recommended for exemption at this time. The commission considered the Native Land Court to be the best tribunal to ascertain and advise the Minister as to which lands should be exempted.

The Native Rating Act 1924 was reportedly rushed through at the end of the parliamentary session. The lack of consultation with King Country local bodies provoked a protest from the petition committee (written on Te Kuiti Chamber of Commerce letterhead). This received a frosty response from Coates that ‘as Native Minister I have no intention of first submitting any of my proposals to any set of petitioners for approval before taking action.’⁸³ A telegram was also received from John Ormsby, communicating a similar objection from ‘a very large meeting of chiefs and people’ in Otorohanga to the lack of consultation with Ngati Maniapoto.⁸⁴ Alarm was expressed at the ‘far reaching effect of provision under which local bodies may now recover rates on alienation of native lands under court order.’ Coates’ response was somewhat more placatory. He explained that the Bill had been framed after careful consideration of departmental records, local body and Maori representations, and the findings of the Native Rating Committee’s work on the East Coast. ‘I think Ngati Maniapoto will admit when the law is being administered that it is an honest attempt to do the right thing by everyone concerned.’⁸⁵

3.2.1 Charging order prosecution

⁸¹ ‘Native Land Rating Bill’, MA 1 401 20/1/1 part 1, ArchivesNZ Wgtn; Towers DB:432

⁸² *ibid*

⁸³ Native Minister to secretary, Committee of Local Authorities &c’, 7 November 1924, MA 31 4*4; DB:875

⁸⁴ Telegram dated 7 November 1924, in above; DB:877-878

⁸⁵ Native Minister to J Ormsby, 11 November 1924, in above; DB:879

King Country county councils remained sceptical of the new provisions and in July 1925 collectively called for a royal commission of inquiry into the settlement of Maori land and the collection of rates. In a personal interview with the Minister of Native Affairs, also by then Prime Minister, the chairman of the Taumarunui County Council GA Stanton expressed the councils' lack of confidence in the Native Land Court to enforce collection. Coates reassured the deputation that 'the policy of the Government is this: if the Maoris want the land they must work it and accept the whole responsibility of citizenship, and they must pay their rates the same as anyone else.'⁸⁶ He urged the county councils to take their rates claims to the court, and give the legislation a go. By August 1925 a standard rates charging form had been printed by the Native Department, with the advice to registrars to 'give what assistance you can to rating authorities in lodging their claims'.⁸⁷ A 10 shilling application fee applied to each claim. The following June the Under Secretary, himself a judge, countered ongoing criticism of the court's role from the Rural Counties' Association conference in Taumarunui with the startling pronouncement: 'The assumption that the Judges will abuse their powers under the Rating Act, 1925 has no foundation in fact. Should the Judges viciously do so the Department has sufficient power to discipline them.'⁸⁸

In the result the King Country local bodies took Coates' advice. In September 1925 the Auckland registrar sent an urgent requisition for 500 charging order forms in anticipation of the upcoming court sitting at Te Kuiti. The first hearing where charging orders were made took place in October before Judge MacCormick which elicited protest from the Maori landowners attending court. Pareaute Komanga and 14 other residents of Te Kuiti and Otorohanga wrote to the Native Minister, with a separate letter of protest sent by one of the signatories Maria Hoponi.⁸⁹ The residents were dismayed about the charging orders on multiply-owned land adjacent to Crown lands (presumably both were unoccupied) and their reaction suggests they were unaware of the 1924 Act. In response, Coates informed them that Maori land had been liable for rates for many years, the only new aspect of the legislation was that recourse could now be had by the local bodies to charge the unpaid rates against the land. Hoponi was advised:

If there are rates owing on your land and an Order has been made by the Court charging your land with rates, then I would recommend that you pay the amount

⁸⁶ Minutes of deputation, 29 July 1925, MA 1 401 20/1/1 part 1; Towers DB:428

⁸⁷ Under-Secretary Native Department to all registrars, Native Land Court, 3 August 1925, MA 1 401 20/1/1 part 1; DB:203

⁸⁸ Under Secretary Native Department to Native Minister, 22 June 1926, MA 1 1387 1926/208; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1-1926-208

⁸⁹ P Komanga & others to Native Minister, (with translation), 23 October 1925, in above; DB:211

due under the order and clear your land of the charge. For it is just that Native lands should pay rates as well as pakeha lands.⁹⁰

For Komanga's part, the Under-Secretary explained that the issue had caused 'considerable heartburnings' for many years. He referred to the Court's power to remit rates if it found the circumstances warranted it.

... that the Court has not done so in the case of the lands referred to by you, it must be taken to have considered that you were rightly entitled to pay rates on your land and I would suggest that you take steps at once to clear your lands of the charges which have been imposed upon them for unpaid rates.⁹¹

The legal action caused some debate in local media. 'WB Otorohanga' pointed to the historic promises made by the government to obtain agreement to opening up Te Rohe Potae, the paltry sums Maori had received for their land and the fact that they had no part in incurring the subsequent local body debt:

It is said that 'the Maori is glad enough to use the white man's utilities,' but it is not said that these utilities were created with money in the borrowing of which he had no voice: in the expenditure of which he was not consulted, represented, nor his convenience discussed, but as they are there he must use them or perish from the earth!⁹²

Waitomo County Council's applications were prosecuted by Broadfoot & Mackersey, the county's solicitors (in a new combination) since 1910, for four years of rates accruing from March 1922 to March 1926.⁹³ By April it was reported that the council had lodged 233 applications which had resulted in rates payments of £194.⁹⁴ By September 1926 the council's applications for charging orders represented £14,500, which had cost the council £700 in legal costs. It remained nonetheless dissatisfied with the system, arguing: 'The present tendency is to get nowhere and recent legislation is involving the Council in heavy costs to obtain charging orders without much prospect of getting rates for a considerable time to come, if at all.'⁹⁵ It also continued to be disgruntled at the inclusion of Maori land in the calculation of Waikato Hospital Board levies. Waitomo County Council was a primary sponsor of a Counties Association remit that year which sought the exemption of unoccupied Maori land from the valuation roll, arguing that:

⁹⁰ Native Minister to M Hoponi, nd, in above; DB:212

⁹¹ Under-Secretary Native Department to Pareaute Teomanga, 'for translation', in above: DB:218

⁹² *King Country Chronicle*, date unknown, in Clippings book, Waitomo DC; DB:2492. 'WB' is thought to be William Baucke, who was settled at Te Kuiti in 1906 and moved to Otorohanga in 1914.

⁹³ Waitomo County Council Minute Book, vol 2 p 43; Digital DB. Broadfoot began in partnership known as Broadfoot & Finlay. Both partners were mayors of Te Kuiti.

⁹⁴ *King Country Chronicle*, 22 April 1926; not in DB

⁹⁵ 'Waitomo County Council', nd, MA 1 401 20/1/1 part 1; DB:222

... Local Bodies are assessed for Hospital Levy on the value from which no rates come, consequently the burden falls on the Pakeha ratepayer. It is suggested that unoccupied native land be non rateable the same as unoccupied Crown Land and that when such Native Land does become rateable, it should be placed on the same basis in all respects as European Land as regards collecting of rates.⁹⁶

Unlike Ngata's recommendation however, this latest tactic was not motivated with Maori interests in mind and the association president's statement that 'if these rates are allowed to accumulate there will come a time when the poor native will not have any interest at all and he will not do anything', should not be mistaken for paternalistic altruism.⁹⁷ The 'anything' referred to alienation, under the growing weight of experience – as indicated above – that to charge these non-productive lands every three years with arrears meant that in time the accumulated charges would outstrip the value of the land, making both lease and sale untenable. Importantly, Waitomo County Council sought to have the charging orders secured *before* any exemption took place.⁹⁸ Faced with the reality of non-payment, the county call for exemption was in fact a way of cutting its losses: once the charges had been secured, the lands would be removed from the valuation roll, relieving the county for hospital levies calculated on the county's capital rateable value. As a direct result of the Counties Association remit – although it suited Ngata's purposes too – amending legislation was passed providing that the existing Governor General's power to exempt Maori land from rating liability could be prompted by the recommendation of the Native Minister, the chairman of the local authority, the commissioner of Crown lands, or a judge of the Native Land Court. The Native Minister could also release land from previous charges, and the local authority could write such rates off and remove the properties from the rates book.⁹⁹ In March 1927 agreement was reached between the Valuer General and the Under-Secretary for Native Affairs that the latter department would advise the Valuation Department of Maori lands so exempted.¹⁰⁰

Waitomo County Council was part of another deputation to Wellington in October 1926 although the records of this meeting are not on file. A written response from the Acting Native Minister Ken Williams reiterated that 'the Government has every desire to assist in the collection of rates, but at the same time

⁹⁶ *ibid*

⁹⁷ 'Extract from report of Deputation from Counties Association...', 27 July 1926, in above; Towers DB:418

⁹⁸ 'Waitomo County Council', nd, in above; DB:222

⁹⁹ See correspondence between Native Minister and Under-Secretary Native Department, August 1926, in above; DB:219-221. The clause became Section 34, Native Land Amendment and Native Land Claims Adjustment Act 1926.

¹⁰⁰ In MA 1 401 20/1/1 part 1; not in DB

desires that the lands of the Maori shall not be sacrificed for rates without at least their having a chance of making some attempt to liquidate the charges imposed upon them.’¹⁰¹

It should be understood that while Coates’ legislative remedy had enabled a great deal more Maori land to be charged with rates, the fundamental criticisms of the charging provisions had not been satisfactorily resolved. There remained a fundamental inconsistency between the government’s avowal that to charge unproductive and unoccupied multiply-owned Maori land with unpaid rates was unfair; and the very same charging provisions in the Act which allowed precisely this to occur. Waitomo County Council’s own suggestion that unoccupied Maori land be non-rateable in the same manner as unoccupied Crown land, for whatever motivation, is proof that the justice of doing so was widely apparent at the time. Regardless of any Treaty considerations, the majority of Maori had no way of paying rates on such unoccupied lands, not just once, but year after year. From the landowners’ perspective, the accumulation of charging orders over time would outweigh their interest in the property. The fact that Maori would ‘find themselves on the wrong side of the ledger’ as a result of such charges had been the grounds of objection to similar provisions in the earliest debates over rating in 1882.¹⁰² As explained above, local bodies remained dissatisfied for the same reason, in that the accumulation of charges loaded against the title would act as a disincentive for future alienation. More importantly it did not give them the quick and liquid revenue they needed to meet debt repayment. At best then, the charging order procedure was a once or perhaps twice-off palliative, which even then did not guarantee local body revenue if the land remained unutilised.

In February 1927 the family of the late Takerei Kingi Wetere appealed to Maui Pomare to stop the forced rating sale by Otorohanga County Council of Tahaia B2A, of around 550 acres. Takerei had had the land declared to be European land in 1917 and the property, described as good land but heavily infested with blackberry, formed part of his estate which was being administered by the Native Trustee.¹⁰³ When the matter was referred to Pomare, the block had already been offered for sale, but had failed to reach the reserve imposed by the Native Trustee of £1400. Nor did the trustee, on account of the noxious weeds, agree to lend funds to settle the rating debt. The initial judgement against the land made in September 1923 was £198 9s 6d, for rates arrears based on a 1919 government valuation of the property at £6787. By 1927, to this had been added two years of interest on the judgement at 10 per cent; a further judgement for rates for 1923/24; three more years’ rates from 1924/25 to 1926/27; expenses of sale; and three years’ worth of rates and penalties levied by the Mangawhero Drainage Board. The total debt was now £694 8s

¹⁰¹ Acting Native Minister to chairman, Waitomo County Council, 15 December 1926, MA 1 401 20/1/1 part 1; Hearn DB:8/4

¹⁰² Stevens, NZPD 1882, vol 43, p 715, cited in Towers, p 34

¹⁰³ Correspondence in MA 1 1408 1927/24; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1927-24

3d, but in the interim the block had been revalued in 1926 at £2785. The Native Department considered that it was ‘unfortunately unable to act’, the last letter on file from the Supreme Court advising that the reserve would be reduced to £1000 at the upcoming sale.

3.2.2 *A domestic necessity?*

The local body conference on Maori land issues held in Te Kuiti on 25 August 1927 provides as good as any example of the impasse between Maori and Pakeha perspectives. Once again, the conference had been initiated by the Te Kuiti Chamber of Commerce and once again it attracted attendance from local body delegates from the wider Te Rohe Potae (with the notable exception of Kawhia County Council), including representatives of newly-formed local power boards and the Mangapu Drainage Board. Local bodies from other districts similarly affected by the non-collection of Maori rates also attended. For the first time local Maori had been invited and Judge MacCormick, too, was present on behalf of the Native Department.¹⁰⁴ The editorial anticipating the gathering described the objective of the meeting to ‘devise means to fill up the empty spaces by settlement on the land, whether it be by natives or Europeans.’¹⁰⁵ The proposed agenda reflected the link between Maori rating and settlement:

That in the opinion of this conference the time has arrived when, in the interest of both races and for the welfare of this Dominion a more just and equitable solution must be found (a) to provide for the collection of native rates; and (b) the satisfactory settlement of surplus native lands found suitable for settlement, either by native or European settlers, so that such lands may become revenue-producing at the earliest possible date.¹⁰⁶

In addition to the perennial complaint regarding non-payment, most of the local authorities within Te Rohe Potae had by now tested the charging order provisions to effect collection – at considerable cost and with little return. Collection, it was claimed, had been made ‘economically impossible’. Waitomo County Council arrears claimed from Maori assessments now amounted to £17,248. It had obtained 408 charging orders – virtually the entire number of Maori assessments on its roll – securing rates to the tune of £14,867. The legal action had cost the council £1158, with a payment of £250 as a result.¹⁰⁷ Broadfoot, mayor of Te Kuiti, stated that borough action regarding unpaid rates had accomplished only one vesting, and then only after considerable trouble, expense and delay. It should be noted that as county lawyer for Waitomo, Broadfoot personally benefited from this expense. Otorohanga County Council claimed that

¹⁰⁴ Judge MacCormick to Under-Secretary Native Department, 1 September 1927, MA 31 4*4; DB:897

¹⁰⁵ ‘The Native Lands Conference’, *King Country Chronicle*, 23 August 1927, in MA 31 4*4; DB:889

¹⁰⁶ ‘Native Lands: Conference at Te Kuiti. A Representative Gathering’, *King Country Chronicle*, 25 August 1927, in MA 31 4*4; DB:891

¹⁰⁷ ‘Native Land Problem. The Te Kuiti Conference: Important Resolutions’, *King Country Chronicle*, 27 August 1927, in MA 31 4*4; DB:894

£400 worth of legal action had been similarly fruitless. Waipa County Council, too, had ‘tried out the existing legislation to the fullest of its ramifications, but it had not been effective.’¹⁰⁸ Founded as it was on confiscation, Maori rating was a relatively recent issue for this county. It had inherited the northern parts of the formerly inoperative West Taupo County around Kakepuku as a result of the reshuffling of county boundaries in 1922. Some 52 Maori assessments in the Parawera Road District were incorporated into the Orakau Riding, and over 40 Maori ratepayers from the road districts of Kakepuku, Te Rauamo and Wharepapa also became part of the Kakepuku Riding.¹⁰⁹

In the days leading up to the meeting, Broadfoot had publicly advocated the forced takeover of unoccupied Maori land to solve the ‘incubus’ it posed to the well-being of the county.¹¹⁰ As chairman of the meeting, he was a little more circumspect in front of his Maori audience. An early motion put to the meeting by the chairman read:

That this conference is unanimously of opinion that all native land should be classified into two divisions: (a) Land being utilised by the owners; (b) land not being so used. That all land under (a) should be treated as European land in all respects for rating. That all land under (b) where required and where suitable for settlement should be taken over by the Crown at valuation and made available for settlement. That the same facilities for balloting, financing, and supervision be available to the natives as are now available to Europeans. That the purchase money for these lands be in non-negotiable bonds, bearing current interest, and that, with proper authority, any native may have his share in such purchase money applied towards facilitating his farming operations. That until this resolution is given effect to all native rates be paid out of the Consolidated Funds.¹¹¹

As Judge MacCormick observed in his report of the meeting, the suggestion was a reincarnation of the Stout-Ngata Commission of 1907.¹¹² In the event, the above resolution was made the default position to that proposed by EJ Closey of the Otorohanga Town Board and carried by the meeting:

That the present law in regard to native rating is unsatisfactory, particularly in regard to [the] establishment of liens. It should be amended to provide fullest powers of sale and the veto of the Native Minister should be abolished...¹¹³

¹⁰⁸ Ibid; DB:895

¹⁰⁹ Waipa County Council rates book 1924/25, Kakepuku and Orakau Ridings, Waipa District Council; Digital DB

¹¹⁰ *King Country Chronicle*, 27 August 1927, in MA 31 4*4; DB:894

¹¹¹ Ibid

¹¹² Judge MacCormick to Under-Secretary Native Department, 1 September 1927, MA 31 4*4; DB:897

¹¹³ *King Country Chronicle*, 27 August 1927, in above; DB:895

Maori in the district had been perturbed enough by the organization of the conference to travel to Wellington earlier in the week to voice their protest.¹¹⁴ Those who attended the meeting – among them Peter Barton, Whare Hotu, Tohe Searancke, Tame Kawe, H Hetet, J Whitinui and Pihu Hihite – responded to the statistics of non-payment by explaining the reasons why. Once again the lack of access to development finance and the impoverished circumstances of many landowners were cited as economic reasons preventing payment: ‘The Maori is in the gutter’, MC Burgess from Ongarue stated ‘don’t push him down further.’¹¹⁵ Judge MacCormick too, agreed that ‘the Maoris’ trouble was to find the money.’ Barton pointed out that Maori had already paid their rates in the cheap Crown purchase of their land. With regard to noxious weeds and pests he asked pointedly who had introduced these to the district. Once the resolutions had been voiced however, the discussion turned political. Gabriel Elliot rose and voiced the Maori objection to paying rates on unoccupied lands, particularly when unoccupied Crown lands were not liable. He told the assembly the Treaty of Waitangi gave Maori dominion over their lands and that ‘no question of confiscation would be tolerable’.¹¹⁶ Broadfoot took immediate exception to the use of the term confiscation, and then went on:

I agree that the Treaty of Waitangi is a sovereign treaty. But a domestic necessity has arisen in this country – settlement – and when a domestic necessity and a sovereign treaty come into conflict that domestic necessity is paramount, provided that the abrogation is assessable in compensation – which it is.¹¹⁷

The pronouncement caused a number of Maori to stand and speak – through an interpreter – and Broadfoot’s attempt to curb their response to two minutes each caused a number of them to leave in disgust. Other motions were carried by the conference as the afternoon wore on, including the recommendation that no succession orders for Maori land in default be issued until all charging orders had been paid; and that in respect to valuation, all general and special rates be capitalised and deducted from the unimproved value, so that Pakeha ratepayers weren’t paying ‘twice’ for road improvements. One of the last requests came from the Tangitu Settlers’ Association, to have their 42-year leaseholds of Maori land converted to freehold. The request highlighted an issue that had assumed growing significance for county coffers since the slump of 1921, and would inform future discourse surrounding the leasing of Maori land. It was claimed that the leaseholds did not give the lessees sufficient security to raise capital finance, or, alternatively, that the expenditure required to farm the lands well were not justified under the

¹¹⁴ *King Country Chronicle*, 23 August 1927, in above; DB:889

¹¹⁵ *King Country Chronicle*, 26 August 1927, in above; DB:892

¹¹⁶ *King Country Chronicle*, 27 August 1927, in above; DB:895

¹¹⁷ *Ibid*

conditions of the lease.¹¹⁸ The result was that many of the leases had been surrendered, and those that were still held were being farmed poorly. The trend had serious ramifications for local body revenue and six months later Waitomo County councillor James Boddie organised another parliamentary tour of the Oparure district to support his contention that the leaseholds be converted to freehold, through a deferred payment system over 30 years.¹¹⁹

One week after the Te Kuiti conference, Peter Barton, Wehi Te Ringitanga, Mokena Patupatu and Thomas Hetet met with Native Minister and Prime Minister Coates in Wellington to present a petition regarding the rating of Maori land within Te Rohe Potae.¹²⁰ The petition was dated 22 August, three days before the local body event, which suggests that it was the work of those who had left for Wellington in protest before the conference began. Barton was the principal spokesperson to the Prime Minister, claiming that ‘the application of rates by our white brethren goes in the direction of the extermination of the native.’¹²¹ The petitioners posited their appeal to the Prime Minister in the tradition of that of their forebears, via Gorst, to the Queen of England in 1884, namely, the threat that roads and railways – with the attendant rating – posed to rights guaranteed to the tribe by the Treaty of Waitangi.

The spirit of those Chiefs so ably explained by Sir John Gorst on that occasion is exactly the same with us today – It is unnecessary, Sir for us to reiterate to you our love and devotion to our King and Empire and our implicit confidence in you as Native Minister and Your Government to safeguard and protect those privileges granted to us under that Treaty.

We firmly believe Sir, that the Government of New Zealand will not fail to protect and promote the Welfare of the Native People by a just administration of the law and by a generous consideration of all our reasonable representations as promised by the British Government to our fathers in 1884 – Our great trouble today is the question of Rates on our lands and the treatment of the Treaty of Waitangi as a “joke” by the Pakeha.¹²² [emphasis in original].

In addition to the 1884 Treaty-based deputation to Lord Derby, the petition also set out Ballance’s promises at Kihikihi in February 1885, and those made by Stout at the sod-turning ceremony three months later. In a telling demonstration of the abiding relevance of these promises, the petition was presented to Coates in the very wheelbarrow Stout had used 42 years before.

¹¹⁸ ‘Suggested Policy for Converting Native Leases to Freehold’, 4 October 1927, MA 31 4*4; DB:930-931

¹¹⁹ ‘Deputation from Lessees of Native Lands ...’, 17 March 1928, in above; DB:925-929

¹²⁰ ‘Maori Deputation from Te Kuiti ...’, 1 September 1927, in above; DB:902

¹²¹ *ibid*

¹²² Memorial of Ngati Maniapoto, 22 August 1927, in above; DB:901a

Coates was clearly moved by the delegation. He acknowledged the promises that had been made, and of the duty incumbent on him as Prime Minister to stick to the spirit of the arrangement ‘as far as one can’. He also admitted to the difficulty in doing so.

The position is something like this – the pakeha, the same as anyone else, is always looking for a means of being able to pass on costs to somebody else, and if the native land is not paying rates, it is natural that the pakeha should say, I am paying for what the other fellow ought to be paying for. That idea grows and grows and becomes a force and you are in this position, of having to face about a million and a half of people against about fifty thousand people. One has to try and be strictly honourable and fair to the minority and at the same time hold one and a half million back, on the grounds that these are definite arrangements – well, it is a little difficult at times.¹²³

Unlike Broadfoot’s contention that the needs of settlement demanded, and indeed justified, the abrogation of Maori property rights, Coates’ statement acknowledged that the issue was one of political expediency, and that the protection of such rights was the honourable and fair thing to do. The Prime Minister also alluded to Maori land development initiatives underway, suggesting that such ‘progressive’ development held the promise of enabling Maori to ‘do well for himself, and gradually take part in the ordinary responsibilities of citizenship. That is to be desired.’¹²⁴ The whole address, although sympathetic, was also markedly vague. The delegation left with Coates’ assurance that their interests would be ‘carefully watched, and, I hope, safeguarded’. They also apparently left under the impression that the Prime Minister had agreed with their position that their lands were not liable for rates on account of the historical compacts. The following month Commissioner Bowler reported on Maori resistance to recent local body action to recover arrears: ‘Some of them, with what amount of truth I cannot say, state that the Right Honourable the Prime Minister has advised them that they are not liable.’¹²⁵

3.3 Consolidation: ‘the final remedy’

Consolidation has been dealt with fully in Terry Hearn’s ‘Land Titles, Land Development and Returned Solder Settlement’ report. It is reconsidered here because local body pressure for rates was one of the central factors driving the scheme. While Ngata was primarily interested in getting Maori into the business of farming for their own economic wellbeing – the ‘profitable occupation’ of their land – this too, was arguably driven by the underlying imperative of ‘use it or lose it’: that Maori engagement in land development and farming would ‘justify’ the retention of their lands (and enable future rates payments).

¹²³ ‘Maori Deputation from Te Kuiti...’, in above; DB:904

¹²⁴ *ibid*

¹²⁵ Commissioner Bowler to Under-Secretary Native Department, 4 October 1927, MA 31 4*4; DB:906

To reiterate what Prime Minister Coates had told the local bodies in 1925, ‘if Maoris want the land they must work it and accept the whole responsibility of citizenship, and they must pay their rates the same as anyone else.’¹²⁶ A necessary part of getting the titles ‘cleaned up’, in view of concerted local body lobbying, was the satisfaction of outstanding rates demands on Maori land.

3.3.1 *Preparing the way*

Following on from the Te Kuiti local body conference, a local body delegation to Native Minister Coates took place on 6 October 1927. Broadfoot, mayor of Te Kuiti Borough, led the deputation. He called attention to the £42,000 lost annually to local authorities in the North Island from the non-payment of rates from Maori land, arguing that as these losses were the creatures of statute, ‘they should be obviated or assumed by the State’: they should not fall on the particular local bodies which had the misfortune to have Maori land within their boundaries.¹²⁷ Broadfoot suggested that Crown reimbursement along the lines of the Crown and Native Lands Rating Act 1882 be reinstated so that the liability became a national one or, failing that, existing recovery provisions be amended to guarantee a tangible result for local government, ultimately from the sale of Maori land. The delegation also urged that consideration be given to the utilisation of idle Maori land in general, providing Maori with the opportunity to farm their lands. To this ostensible end the resolution of the Te Kuiti conference was put to the government: the classification of Maori land into that used or required for use by the owners; and that not required and suitable for settlement ‘taken over’ by the Crown at valuation based on production and made available for settlement, with Maori given the same opportunities as Pakeha to apply and get finance for balloted land. It was pointed out that receivership provisions were impractical within boroughs. In stressing that the only solution for unpaid rates was the vesting of land in the Native Trustee for sale, the statement of the Otorohanga Town Board chairman was chilling:

They did not propose to apply to have all the native blocks vested in the Native Trustee for sale. They could quite see that selling of native land was like selling any other land – you could not sell unless there was a market. But if once a lien was granted all rates for which the land was liable were secured they would feel more confidence in letting the rates run on until there was demand for the land.¹²⁸

In response, Ngata informed the delegation of the issue from the Maori point of view: of the title difficulties that prevented Maori from using their land, of the inaccuracies in valuation rolls that needed to be taken into account before charging orders were made. He pointed to his own lifetime of effort in his

¹²⁶ Minutes of deputation, 29 July 1925, MA 1 401 20/1/1 part 1; Towers DB:428

¹²⁷ ‘Non-payment of Native Rates’, 6 October 1927, MA 1 408 20/1/14 part 6, ArchivesNZ Wgtn; DB:540

¹²⁸ Ibid; DB:544

homeland of Waiapu to straighten out land titles so that landowners were in the same position as Pakeha ‘but until that position was arrived at it was not fair to treat them exactly the same as Europeans’ with regard to rates recovery.¹²⁹ Ngata argued in favour of classification but in terms of the land’s productive potential, asserting that if such a scheme was applied to Waitomo County, it would be found that the council was rating on ‘quite a lot of land which should not be rated at all.’¹³⁰ He claimed that lands in that county had been on the market for years and that even in better times, no one would take them up. His adamant rejection of Broadfoot’s proposed classification, where ‘surplus’ lands would be made available for Crown-sponsored settlement, provides an interesting insight into how Ngata viewed his own involvement in the Native Land Commission of 1907.

It sounded very simple, but he would fight a long while before he would agree to a proposal like that. They had gone as close to it as they could in the King Country, in having those areas vested, after meeting the Natives, in the Maori Land Board, and more land was vested in the Maori Land Board than in any other district with the possible exception of Opotiki. There would have been a lot more heard about deteriorated land in the King Country had the Crown taken up all the areas thrown in by the Native Land Commission. There was a lot of country in the King Country that no one should have got on.¹³¹

Coates refused point blank to consider the government assuming responsibility for paying Maori rates. He also made it clear that he regarded the forced sale of Maori land for rates arrears on a general basis would be unfair to Maori:

If the requests were acceded to and the matter was left entirely in the hands of the local bodies a state of affairs would be seen in New Zealand which would shock the whole community. It would mean that hundreds of thousands of acres of land, which had belonged to the Maori ever since he had been in the country, would be pushed on to the market.¹³²

But the Prime Minister was not opposed to enforcing collection if the circumstances in each case were found to warrant it, and if the titles were ‘equal to the ordinary title.’ He indicated that the government had been working on a solution ‘which would be fair to the Maori, and which would say that gradually,

¹²⁹ Ibid; DB:547

¹³⁰ Ibid; DB:548

¹³¹ Ibid

¹³² Ibid; DB:550

but definitely, the Maori would have to take up exactly the same burden as the Pakeha, and, as the difficulties were got out of the way, there would be the one law for both races.’¹³³

At Coates’ suggestion this meeting was followed by another between local body delegates, the Under-Secretary for Native Affairs, the Native Trustee, the Maori MPs and the Minister of Lands, where it ‘was generally agreed that the final remedy would be the consolidation of titles.’¹³⁴ Ngata, at the centre of negotiations, obtained the government’s agreement to provide up to £250,000 to assist Maori land development.¹³⁵

A week and a half later, a deputation of MPs including JC Rolleston for Waitomo and Stewart Reid for Kawhia met with Coates to discuss the implications of consolidation for local government.¹³⁶ It was generally accepted that the scheme as proposed would take 5-6 years to implement. Of significance is the marked difference in attitude between the member for Northland and that for the King Country, both districts which were similarly affected by the lack of rating revenue from Maori land. Colonel Allen Bell from the north was fully supportive of the scheme, in particular the State assistance for Maori farming with its potential to lift Maori to the point where they could afford rating liabilities. He claimed local bodies in the north were tired of the whole issue, and would gladly wipe both past charges and those incurred while the scheme was put in place, if that’s what it took to resolve the issue. Rolleston on the other hand was not so easily appeased. What relief would be provided for the affected local bodies in the meantime, including the money ‘wasted’ on obtaining charging orders? Would Maori rating be put on the same basis as that for European lands as a result? The Waitomo Member was sceptical of the reception consolidation would have in his district, arguing that Maori there had ‘no ambition’ to farm their lands. Would the government force Maori to do so? Ngata’s response was instructive: ‘generally speaking they would ultimately agree. They would see the advantages of it. It was not always with a view to their settling on the land, it was with a view to a title being made available for other purposes. If they did not want a farm in the King Country they would want to lease or sell it.’¹³⁷ It is also of interest that the Kawhia Member did not consider his district would be affected by consolidation. Ngata had initially been

¹³³ Ibid; DB:551

¹³⁴ *King Country Chronicle*, 10 November 1927, cited in Hearn, ‘Land Titles, land development, and returned soldier settlement in Te Rohe Potae’, p 43

¹³⁵ Ngata’s version of this meeting subsequently relayed to Te Rangi Hiroa, cited in Hearn, p 43

¹³⁶ ‘Deputation to the Right Hon. the Prime Minister on the Subject of Native Rating’, 19 October 1927, MA 31 4*4; DB:907

¹³⁷ Ibid; DB:915

reluctant to include the area in the King Country consolidation on account of the substantial Waikato interests there.¹³⁸

Coates announced the government's consolidation intentions for the King Country in the House in November, introducing the Native Land Amendment and Native Land Claims Adjustment Act 1927, providing for the liquidation of rates by the Crown during consolidation proceedings.¹³⁹ Steps were taken to appoint a consolidation committee to begin work in the new year, including local brothers Pei and Michael Jones, and headed by Ngata himself. Tom Hetet and HM Tere were added to this committee by May 1928. As an essential preliminary, this committee was charged with negotiating rates compromises with the affected local bodies, to satisfy both rates arrears and charging orders, and those accumulating during the implementation of the scheme, a timeframe now reduced to two years.

Local authorities within Te Rohe Potae were sceptical about the scheme, and in the meantime legal action had begun to enforce the charging orders obtained the year before under Section 109 of the Rating Act 1925. If a charge remained unpaid for more than one year, this provision enabled the land to be vested in the Native Trustee for sale. The first application by the Te Kuiti Borough Council to do so was heard on 27 January 1927 before Judge MacCormick. Part Te Kuiti 2B1B was four acres of flat land close to the river and marae (3½ acres had been taken by the council for river diversion, streets and recreation reserve, and another almost three-acre part was under lease for 50 years). A charging order over the property for £117 11s 8d had been granted in October 1925. Tohe Herangi, deemed by Judge MacCormick to be 'an intelligent half caste', was one of the principal owners in the block. He appeared in court in January 1927 and testified that he had tried to lease the land to no avail: 'I do not oppose the application therefore.'¹⁴⁰ The order was made.

The 1917 government valuation of £900 piqued the Under-Secretary's attention when the order was forwarded to Wellington for the Native Minister's consent. 'Is it absolutely certain that there is no hope of a receiver leasing the place and paying off the rates on such a valuable property?'¹⁴¹ Judge MacCormick promised to make inquiries. In June, having visited the land with Herangi, the land purchase officer, the district sub-valuer, and two land agents, the judge described the £900 valuation as 'preposterous', and the receivership alternative impracticable:

¹³⁸ See for example Native Minister to Kawhia County Council, 22 July 1929, MA 1 29/3/1 part 2; Hearn DB:9/139

¹³⁹ NZPD 1927, vol 216 p 536, cited in Hearn, p 44

¹⁴⁰ Otorohanga MB 66/361 cited in MA 1 1412 1927/78; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1927-78

¹⁴¹ Under Secretary Native Department to Judge MacCormick, 9 April 1927, in above

It is possible that some one might take it for grazing, but not at any figure that would meet the rates, 2 years further rates will be due in July next, approximately £60. No doubt the valuation could be reduced but that would not get rid of the accrued rates and in view of the attitude of the natives themselves, I do not see any other course than letting the Native Trustee do the best he can with it.¹⁴²

The judge reported that Herangi had told him 'anyone could have the property so far as he was concerned.' Given the liability the land represented as a result of rating on such an inflated value, this comes perhaps as little surprise. Based on Judge MacCormick's reckonings, the annually recurring rate amounted to 15 per cent of the land's value. Three years rates had been secured by a charge, and another two years' almost due. In another two years' time then, the accumulated rates, if similarly charged, would exceed the value of the land, for the charges remained on the title until they were paid. Native Minister Coates signed the order.

This was not the last of the matter, which is discussed again in the context of consolidation. For now however, Part Te Kuiti 2B1B set an important precedent. By October 1927 the Te Kuiti Borough Council, the Waitomo County Council and the Taumarunui County Council between them had made 26 applications for vesting orders under Section 109. In the case of the borough, other 'Te Kuiti 2B flat' sections were targeted, the town clerk justifying the action with the explanation:

This flat was originally a swamp and was drained by the Borough some years ago out of loan moneys for health reasons. All the sections (with the exception of Te Kuiti 2B No.7 which comprises 5 acres) are unoccupied, most of them are wet and some of them have gone back practically to swamp.¹⁴³

Wetland or no, the borough council was after £1983 10s 6d of arrears on the 26 Maori assessments in the 'flats'.¹⁴⁴ When these applications were adjourned, a disgruntled borough council wrote to the Native Department, suggesting that it send an officer up to call the landowners together to 'endeavour to get the rates paid or the properties disposed of to Europeans who will pay the rates.' With regard to valuation, the clerk admitted that the 'present day figures are admittedly excessive,' but countered that this was borough-wide, and that 'on an equitable re-valuation of the whole Borough these sections will have to bear the same proportion of the total rates as they bear to-day.'¹⁴⁵ (Needless to say, the equity of rating borough lands on the unimproved value was not mentioned.) In response, the Under-Secretary suggested

¹⁴² Judge MacCormick to Under Secretary Native Department, 1 June 1927, in above

¹⁴³ Te Kuiti Borough Council clerk to Under Secretary Native Department, 2 December 1927 in above

¹⁴⁴ Schedule enclosed in above

¹⁴⁵ *ibid*

that the council ‘wait a little’ to see whether Maori would accept consolidation, ‘and possibly in that provide for the payment of rates.’¹⁴⁶

Commissioner Bowler, who had been responsible for the adjournment, reported that it was ‘noticeable that in some cases the blocks are fairly valuable while the liability is small.’¹⁴⁷ A number of the adjourned applications were heard in Te Kuiti by Judge MacCormick in January 1928. The judge had been advised to ‘withhold the vesting of lands for rate charges until it is seen what the outcome of the new movement is to be’, but the Native Department had reckoned without the weight of the local bodies.¹⁴⁸ Of the January hearing the judge reported that ‘In view of the strong pressure of the local bodies concerned I doubt whether I will be able to refrain from making orders or appointing a Receiver in some cases at all events.’¹⁴⁹ The local bodies’ preference for vesting over the appointment of a receiver was stated to be the impossibility of leasing the land for less than 21 years without compensation for improvements. Te Kuiti Borough Council secured 96 charging orders in this period and 41 vesting orders. Of these, one property was sold as a result.¹⁵⁰

Judge Bowler, in October, had commented that that position was further complicated ‘by the fact that some of the Natives definitely refuse to recognise any obligation to pay rates.’¹⁵¹ In January Judge MacCormick reported that ‘[t]he Natives themselves are ignoring the proceedings altogether.’¹⁵² In the event the adjournment of the cases prompted another protest from Rolleston MP to the Native Minister. Rolleston claimed that Waitomo County Council had purposefully prosecuted five cases of default where the Maori ratepayers were in a position to pay. The January adjournment was widely – and correctly – perceived to have been influenced by the impending consolidation scheme. In addition to the gripe that local bodies should be advised of this policy to avoid further legal costs, Rolleston also complained of the ‘moral effect’ of the county’s failure to enforce payment.

I am afraid the natives have a contempt for the present Act as far as this district is concerned, they have not had any example yet of a man who is capable of paying his rates being forced to do so. Therefore they are showing less & less inclination to come along & voluntarily offer their rates. The moral effect of selecting a case

¹⁴⁶ Under Secretary Native Department to clerk, Te Kuiti Borough Council, 10 December 1927, in above

¹⁴⁷ Commissioner Bowler to Under-Secretary Native Department, 4 October 1927, MA 31 4*4; DB:906

¹⁴⁸ Under-Secretary Native Department to Judge MacCormick, 19 January 1928, AAMK 869 W3074 1000c 29/1 part 1, cited in Hearn, p 46

¹⁴⁹ Judge MacCormick to Under-Secretary Native Department, 23 January 1928, MA 31 4*4; DB:919

¹⁵⁰ Broadfoot, 17 June 1933, Native Rates Commission, MA 1 407 20/1/14 part 2, p 471; Digital DB

¹⁵¹ Commissioner Bowler to Under-Secretary Native Department, 4 October 1927, MA 31 4*4; DB:906

¹⁵² Judge MacCormick to Under-Secretary Native Department, 23 January 1928, in above; DB:919

where a native is dodging his responsibilities & forcing him to pay or selling up his land would have I am sure a salutary effect on others who are also dodging.¹⁵³

In a somewhat coded response, Coates suggested that the ‘heartburnings and dissatisfaction’ caused by ‘the forced sale of their land’ might only fuel support for the ‘counter influences’ opposed to consolidation: a reference perhaps to Ratana followers, who Pei Jones was subsequently unable to convince about the merits of land development. Nonetheless, he maintained, the matter was one for the court, and each application for consent of the Minister would be considered on its merits.¹⁵⁴ The request of the Otorohanga Town Board and the Te Kuiti Borough Council at this time to have the time limit for lodging claims for unpaid Maori rates extended from two to four years was turned down by the Minister.

3.3.2 *The negotiations*

The consolidation committee was welcomed on to Te Tokanganui a Noho marae on the afternoon of 12 April 1928. In addition to Ngata, the entourage included Maui Pomare; Tau Henare MP; HW Uru MP; Balneavis, private secretary to the Native Minister; Pei Jones, consolidation officer; Darby from Lands and Survey; and Cahill from the Waikato Maniapoto District Maori Land Board in Auckland. Ngata explained the purpose of consolidation to the meeting as ‘the stock-taking of titles, adjustment of leases and the wholesale overhaul of other problems relating to Native lands and interests in the district.’¹⁵⁵ Consolidation would apply to all Maori land in the King Country, to determine ‘the nett individual freehold value of each native land-owner, which could not be ascertained until the liabilities encumbering such interest were completely and finally assessed.’¹⁵⁶ Local bodies were after rates, the assembly was told, they had obtained charging orders and were now pressing for vesting orders, and the combined outstanding rates bill for the district of £52,292 would rise by £11,552 each year. Ngata asked the meeting for the authority to negotiate a compromise payment on their behalf, and suggested as a guideline 25 per cent of the amount due by 31 March 1930. Ngata asked for a similar mandate to compromise survey liens. Ngati Maniapoto was told of the committee’s appointment to meet with Waitomo County Council on Friday evening.

From the brief minutes of the meeting, and from the newspaper account of the afternoon’s proceedings, it is clear that Ngati Maniapoto were opposed to consolidation.¹⁵⁷ The main grounds for opposition were the historic government promises of exemption from rates, the fact that land had been taken for road and

¹⁵³ JC Rolleston to Native Minister, 28 January 1928, in above; DB:921

¹⁵⁴ Native Minister to JC Rolleston MP, 1 February 1928, in above; DB:923

¹⁵⁵ ‘King Country Consolidation Scheme’, MA 1 29/3/1 part 1, ArchivesNZ Wgtn; Hearn DB:9/210

¹⁵⁶ *ibid*

¹⁵⁷ *New Zealand Herald*, 13 April 1928, in MA 31 4*4; DB:936

railway without compensation, and the inequitable service by local bodies to Maori, even when they paid their rates. Their arguments were rebutted by Ngata, who countered that rates from all land in use was required to finance local infrastructure, regardless of ownership.¹⁵⁸ The meeting broke up at 5pm, but not before the people were warned that ‘the moment for making such adjustments might pass and the future would indeed be most difficult.’¹⁵⁹

Ngati Maniapoto was said to have debated the issue into the night. Pei Jones was present. When the meeting was resumed at 10.00am the following morning, the result of the tribe’s deliberations was handed to the committee:

He Motini:-

1. E whakaae ana matou ki te utu reiti.
2. Ko nga reiti e whakaae nei matou, me utu haawhe, i raro hoki i te wariu kore whakapainga o nga whenua e mahia ana e matou. Ko nga reiti katoa kei runga i nga whenua o roto o nga Kaunihera e whai ake nei tae atu ki 31 o nga ra o Maehe, 1930, me horoi katoa atu.

Nga Kaute Kaunihera: Otorohanga, Kawhia, Ohura, Waitomo, Taumarunui (Wahi i te takiwa o te Waikato Maniapoto), Clifton, Kaitieke, Waipa (taha tonga o te awa o Puniu.)

Nga Para Kaunihera: - Taumarunui, Te Kuiti, Otorohanga

Mehemea ka whakarohia e te kawatanga me utu tetehi wahi o nga reiti e mea nei matou me horoi katoa atu, ko aua moni e utua ma te kawanatanga e utu ki ana moni ake. Me mahara hoki te kawatanga mo tana horoitanga i nga moni maha i runga i nga whenua hoia me etehi atu whenua i horoia e te kawanatanga nga toimahatanga o runga.

Ko nga whenua e takoto noiho ana kua e utu reiti.

Nga whenua kaore i whai huarahi kua e utu reiti.

Ko nga whenua kei te riihi me utu e te kaitango riihi nga reiti [k]atoa e tika ana kia utu e ia.

Ko nga reiti kaore i utua e taua kaitango riihi i mua o te mutunga o tana riihi i mua ranei i tana whakarere nga i te whenua kua aua reiti e whakataua ki runga i taua whenua.

A motion:

1. We agree to pay rates.
2. Of the rates we agree to, we shall pay half, based on the unimproved value of lands we are using. All of the rates on lands within the following councils, up to the 31 March 1930, should be written off.

The county councils of Otorohanga, Kawhia, Ohura, Waitomo, Taumarunui (the portion of the Waikato Maniapoto area), Clifton, Kaitieke, Waipa (on the south side of the Puniu River)

The town boards: Taumarunui, Te Kuiti, Otorohanga

If the government decides to pay part of these rates we say should be written off, then the government should pay it from its own funds. The government should keep in mind the writing off of considerable sums from soldier settlements, and other lands with charges the government has written off.

Those lands lying idle should not be rated.

Lands which are not served by roads should not be rated.

Lands subject to lease, the lessees should pay all of the rates for which those lands are liable.

Those rates that have not been paid by lessees before the end of the lease, or before they have abandoned the land should not accrue on the land.

3. This meeting resolves that the government should pay to the hapu of Ngati Maniapoto £1500

¹⁵⁸ *King Country Chronicle*, 14 April 1928, in above; DB:938

¹⁵⁹ ‘King Country Consolidation Scheme’; Hearn DB:9/212

3. E motini ana tenei huihuinga me utu te kawanatanga i nga hapu o Ngati-Maniapoto i te moni £1,500 i te tau mo ake tonu atu, hei takoha ma te kawanatanga mo te whakaetanga a o matou tupuna matua hoki mo nga rori me nga rerewe kia haere i roto i te Rohe Potae. E haere ana tenei motini i raro i taurira i waenganui i te kawanatanga me Te Arawa me Ngati Tuwharetoa mo o ratou moana.

each year in perpetuity, as a token on the part of the government for the agreement of our ancestors to allow the roads and railway to traverse within the King Country. This resolution is in accordance with the example set by the agreement between the government and Te Arawa and Ngati Tuwharetoa for their lakes.¹⁶⁰ [author's translation].

The motion was consistent with the stance Ngati Maniapoto had maintained since the beginning of Pakeha settlement, with the important exception of their concession to pay future rates on occupied land – and Ngata was not satisfied. What would happen, he posed, if the local bodies refused to remit all of the outstanding rates? And further, ‘how could N’Maniapoto expect the goodwill and co-operation of the local bodies towards the exemption of large areas that were undoubtedly unfit for settlement?’¹⁶¹ He asked the assembly to give the matter further consideration, calling for ‘a clear mandate ... for specific compromise’. The meeting was adjourned till 2.00pm. When they resumed, Ngati Maniapoto had seemingly capitulated. It was agreed that £13,000 be offered between eight local bodies to compromise outstanding rates. It was also recorded that the tribe would support the implementation of the consolidation scheme.

The brevity of the concluding moments of this hui conveys the impression that Ngata was primarily interested in obtaining tribal sanction for the rates compromises. The agreement set out above outlining the tribe’s position on rating appears to have been left hanging. As planned, the consolidation committee met with Waitomo County Council that night at 8.00pm. The chairman and clerk from Kawhia County Council were also present. The committee’s calculations were based on figures supplied by the local bodies. (Ngata wryly commented in 1932 that: ‘[a]t that time every Clerk of every local body was going back over the years and totting up what he had been unable to collect.’¹⁶²) Outstanding rates from 1921-1924 were written off as unrecoverable, while those predicted to accumulate until the 31 March 1930 were added to the four years outstanding. This total was then quartered. For the £29,605 calculated to be outstanding by 31 March 1930, Waitomo County Council was offered a cash payment of £7000, on the proviso that it agreed to exempt Maori land from rates until that time. This was accepted (again, Ngata subsequently stated that the sum was ‘considered to be an absolute windfall at that time’¹⁶³). The

¹⁶⁰ *ibid*

¹⁶¹ *Ibid*

¹⁶² ‘Native Rates: Non-collection of...’, 13 April 1932, MA 1 402 20/1/1 part 2, ArchivesNZ Wgtn; Towers DB:612

¹⁶³ *Ibid*

newspaper account of the agreement, based on council information, reported ‘... Sir Apirana Ngata stated that it would take that time to complete the consolidation scheme, and when this was done it was proposed to give the Maori owners a title to their lands, and these would then be in the same position in regard to rating as the European lands.’¹⁶⁴ The minutes of the meeting then record that ‘[i]n subsequent discussions with the Council, Sir A.T. Ngata asked the goodwill of the Council in the matter of classifying Native lands, so as to exempt areas that were found to be inaccessible and unfit for settlement. Members of the Council promised co-operation in the matter.’¹⁶⁵ Ngata also agreed to pay half of the £1000 the council claimed had been spent obtaining charging orders.¹⁶⁶

Having settled with Waitomo County Council, the Kawhia delegates then submitted figures showing an outstanding total of £13,336 up to the end of March 1930. Two months before, Kawhia County Council had lobbied through its local MP to be included in the consolidation compromises, on the basis that ‘one-half of the county comprised native land from which the Council collected practically no rates, despite the fact that quite a number of the natives were dairying.’¹⁶⁷ Ngata had initially considered that the Kawhia County lands should be approached through Waikato ‘channels’, rather than those of the King Country, with the interests of Ngati Mahuta at Taharoa and other places in mind, but the decision was made to include Kawhia County in the compromise ‘as Maniapoto and Waikato Interests were involved and the County was pressing for settlement of the outstanding rates’.¹⁶⁸ The chairman was offered £3000 on the same conditions, which was accepted on the spot, subject to formal confirmation by the council. Ohura County Council, too, indicated its willingness to compromise on the same basis as Waitomo, and was offered £140 for the £576 calculated as outstanding.

The following morning the consolidation committee met with the Te Kuiti Borough Council and delegates from Otorohanga County Council, Taumarunui County Council, and the Taumarunui Borough Council. The same calculations were made, with the borough council extracting the promise of consolidation committee to contribute towards the legal costs involved in obtaining charging orders, and a further £100 from the Maori Purposes Board to put towards including Te Kuiti pa in the sanitary system. Te Kuiti Borough Council reserved its decision. The Taumarunui Borough Council delegates seemed happy to accept the offer of £650 and the reimbursement of legal costs of a further £150. Taumarunui County Council argued for special consideration, on account of the fact that the county had been

¹⁶⁴ *King Country Chronicle*, 14 April 1928, MA 31 4*4; DB:938

¹⁶⁵ *Ibid*

¹⁶⁶ *ibid*

¹⁶⁷ Minister of Lands, 5 March 1928, MA 31 4*4; DB:924a

¹⁶⁸ Native Minister to clerk, Kawhia County Council, 22 July 1929, MA 1 29/3/1 part 1; Hearn DB:9/139

successful in collecting £400 of rates annually. The delegates were pleased with the offer of £1000 plus costs. Otorohanga County Council, too, tried to bargain for 35 per cent. This council's decision was also reserved. Waipa County Council was not present at the meeting, but the consolidation committee resolved to offer £150 for the estimated total of £631 owing on Maori land within the Kakepuku Riding. The minutes taken of this exchange do not refer to any discussion regarding the future exemption of unproductive lands.¹⁶⁹

Te Kuiti Borough Council held its own meeting two days later to discuss the offer. Of concern was Ngata's inability to give a definite undertaking that consolidation would be completed in two years. After some discussion the council's acceptance of the offer was made conditional on legislation being passed 'providing that native lands should be placed on the same footing as European lands after the expiry of two years' respite.'¹⁷⁰

Taumarunui Borough Council subsequently informed the consolidation committee that an offer of £1500 would be more in keeping with circumstances: the £700 offered was not much more than the average annual rates payment by Maori in the town and the council had an £150,000 town improvement loan to consider.¹⁷¹ On 20 June 1928 Jones attended the council meeting with a revised offer of £1000 plus £300 for legal costs. The reported views of the councillors demonstrate a wide range of feeling, from those who commended the committee's attempt to assist Maori, to those who considered it 'not right' for the government to 'allow a Committee, comprised of Natives, to travel the country and bargain with the pakeha.'¹⁷² In the result the council accepted the offer, Jones reporting to Ngata: 'Tino uaua tenei Kaunihera tata ka hinga te motini.'¹⁷³

As Hearn has set out, over a period of four months agreements were reached with nine local bodies affected by the consolidation of 'Ngati Maniapoto' land interests.¹⁷⁴ A total payment of £16,950 to these authorities included the reimbursement of legal costs for obtaining charging orders from 1926, shifting this burden, too, onto Maori land. The money was to be paid from the Native Land Settlement Account and recouped by the Crown in land. The compromise effected with the Mangapu Drainage Board stands out as an anomaly. This local authority was not on the tribal list of entities to treat with, yet the rates

¹⁶⁹ King Country Consolidation Scheme', Hearn 9/214-216

¹⁷⁰ Reported in *King Country Chronicle*, 17 April 1928, MA 31 4*4; DB:937

¹⁷¹ Town clerk, Taumarunui Borough Council to clerk, Consolidation Committee, 23 April 1928, in above; DB:939

¹⁷² *The Taumarunui Press*, 20 June 1928, in above; DB:941

¹⁷³ 'This council was very difficult, the motion was almost lost', Jones to Ngata, 21 June 1930, in above; not in DB

¹⁷⁴ Coates told Parliament that the King Country consolidation was restricted to Ngati Maniapoto interests, Order paper, 12 September 1928, MA 1 29/3/1 part 1; Hearn DB:9/181

arrears – £1210 claimed – were paid in full, as a result of a settlement that appears to have been negotiated subsequently.

In November 1928 all Maori land within the Waitomo County, except those under lease to Pakeha, were gazetted exempt from rates until the end of March 1930.¹⁷⁵ The exemption had been hurried along by the council to ensure that the value of these lands would not be included in the 1928/29 calculation of hospital board levy.¹⁷⁶ All Maori land within Kawhia County was similarly exempted in February 1929. The exemptions of Maori land from rating liability within the other local body districts do not appear to have been gazetted.

3.3.3 *The promise of consolidation*

To an extent consolidation was a return to the 1880s Crown reimbursement of Maori rates. The rates for which the compromise settlements were paid were not ‘washed away’ as Maniapoto understood it. On the contrary, the Crown’s assumption of this liability made payment mandatory. Ngata had envisaged that the combined rates liability would be loaded on to one ‘sinking’ block, but this proved difficult. Farmers in the first completed consolidation instalment for example had the rates arrears apportioned to each block, and charged against the land. A Maori individual subsequently taking up a lease under Maori Land Board control was bemused by the rates charges: ‘I understood that all rates and survey has been paid in a lump sum ... if so then the Land is clear of rates until 1930.’¹⁷⁷ Rates were not wholly forgiven, the lessee was told, but compromise had ensured a reduction of the charges, which had been apportioned to the land and was required to be paid in order to reimburse the Crown.¹⁷⁸

Given that consolidation was sold to both Ngati Maniapoto and the local bodies as a remedy for present ills, it is important to consider what consolidation was all about, what in fact was being offered, and who stood to benefit.

At the heart of the ‘problems’ associated with Maori tenure was that of communal ownership. It was multiple ownership which had necessitated the development of an alternative system of rates recovery, and multiple ownership was also blamed for the large areas of unutilised land. Maori had found that titles in common could not attract financial capital for development. On the other hand, by the end of the First World War the ad hoc partitioning undertaken by the Native Land Court to achieve the individualisation

¹⁷⁵ *NZ Gazette*, no 86, p 3333

¹⁷⁶ Chairman, Waitomo County Council to Native Minister, 23 April 1928, MA 1 413 20/1/45, ArchivesNZ Wgtn; DB:574

¹⁷⁷ Tuku Tane to Native Minister, 19 February 1929, MA 1 29/3/1 part 1; Hearn DB:9/165

¹⁷⁸ Native Minister to T Tane, 13 April 1929, in above; Hearn DB:9/166

of title was only adding to the problem of land utilisation. As the National Efficiency Board had pointed out to Herries in 1918, Maori land in many cases was over-partitioned and unplanned, creating both ‘uneconomic’ units and problems for rational road development.¹⁷⁹ Ngata in 1929 agreed that the work of the Native Land Court with partition and succession had only accentuated ‘the evils of communal ownership.’¹⁸⁰ Consolidation then, was devised as a means of continuing the process of individualisation of title – the determination of ‘the nett individual freehold value of each native land-owner’ – through the reorganisation or rationalisation of land interests. Land blocks would no longer be carved into smaller and smaller pieces to effect individualisation, but the multiple interests of an individual in many blocks would be consolidated as far as possible into a single block. In effect, consolidation sought to ‘step over’ the problems created by the legacy of Maori land legislation which had brought the economic utilisation of Maori land to a standstill. The Member for Waitomo was told by Coates in March 1928 that the scheme had been devised ‘with a view to the better utilisation of their lands’.¹⁸¹ As detailed above, it was also devised as the ‘final remedy’ for rates recovery. In congratulating Waitomo County Council on its decision to accept the compromise, Prime Minister Coates explained the decision had enabled the committee:

to facilitate the consolidation of the Natives’ scattered interests into composite blocks more easily worked, financed, or disposed of either by lease or sale, and so give the Natives workable and negotiable titles under which they cannot have any legitimate excuse for not paying rates in the future.¹⁸²

That rating was a primary factor driving consolidation is evident in the way that the threat of future local body prosecution for rates was used by the committee to persuade Ngati Maniapoto into accepting the scheme; and, conversely, how the prospect of guaranteed rates once consolidation was effected, was held out to local bodies for the same purpose. The two promises seem inherently contradictory – without the added components of classification and land development.

3.3.4 Classification of lands

The classification of land for rating purposes was an integral part of the scheme, to the extent that early references to the government’s plans often used the terms ‘consolidation scheme’ and ‘classification scheme’ interchangeably.¹⁸³ To the local body delegation in October 1927 Coates made particular

¹⁷⁹ Chairman, National Efficiency Board to Native Minister, 4 July 1918, MA 1 401 20/1/1 part 1; Towers DB:471

¹⁸⁰ Native Minister to Minister of Lands, 16 September 1929, MA 1 512 25/1/1 part 1, cited in Hearn, p 57

¹⁸¹ JG Coates to Rolleston MP, 27 March 1928, MA 31 4*4; DB:932

¹⁸² Native Minister to chairman, Waitomo County Council, 2 May 1928, MA 1 413 20/1/45; DB:575

¹⁸³ See for example Judge MacCormick to Under-Secretary Native Department, 23 January 1928, in MA 31 4*4, DB:919

mention of the classification of lands, ‘whether it affected the Native or the land itself’ as part of the solution.¹⁸⁴ In November 1927 he explained that the consolidation committees set up to implement the scheme would ‘go into the position of each and every block of Native land in the North Auckland and King Country districts where the trouble is most acute’.¹⁸⁵ A large number of such blocks, he went on, should never have been placed on the rating rolls and local bodies should remit the rates on such lands and remove them from the rolls. These observations echoed Ngata’s claim in the House, that much of the rated Maori land in Te Rohe Potae was unsuitable for farming, the most productive land having been leased or sold. Local authorities in the district, he warned, would have to recognise ‘that rates have been levied and charging orders taken upon land which is unsuitable for settlement, which if it had been in the hands of the Crown, could never have been brought into profitable settlement, and which if owned by a European company, would have been foisted upon the Forestry Department a long time ago.’¹⁸⁶

Classification was also promised by the consolidation committee at Te Tokonganui a Noho in April 1928, and used to counter Ngati Maniapoto allusions to the compact:

Ballance’s so-called promise meant no more than the policy now recognised, that land in profitable occupation [or] capable of production should contribute toward local taxation. A classification of land should reveal the proportion that should be exempted from rates, and such a classification needed the goodwill and co-operation of the local bodies.¹⁸⁷

This was reiterated by Ngata faced with the tribe’s refusal to concede a compromise payment for past arrears: ‘Further, how could N’Maniapoto expect the goodwill and co-operation of the local bodies towards the exemption of large areas that were undoubtedly unfit for settlement?’¹⁸⁸ Having gained Waitomo County Council’s agreement to the negotiated rates compromise that evening, Ngata then asked for ‘the goodwill of the Council in the matter of classifying Native lands, so as to exempt areas that were found to be inaccessible and unfit for settlement.’¹⁸⁹ It was recorded that the councillors promised to cooperate in the matter. Of significance is the fact that the issue appears as an afterthought, and was not made as a condition to the agreement. Furthermore, although the minutes of these proceedings are brief, no mention of this vital element of consolidation was made in the subsequent meetings with other local bodies. On the contrary, Ngata left these councillors with the decided impression that the exemption of all

¹⁸⁴ *Dominion*, 7 October 1927, in MA 1 401 20/1/1 part 1, Towers DB:410

¹⁸⁵ *King Country Chronicle*, 10 November 1927, cited in Hearn, p 43

¹⁸⁶ NZPD 1927, vol 216, p 543, cited in Hearn, p 44

¹⁸⁷ ‘King Country Consolidation Scheme’, 12 April 1928, MA 1 29/3/1 part 1; Hearn DB:9/210

¹⁸⁸ *Ibid*

¹⁸⁹ *Ibid*

Maori land would prevail until consolidation was complete, in a timeframe that had been truncated from an initially envisaged 5-6 years, to less than two. At that point, Ngata was understood as having promised that Maori owners would have title to their land, ‘and these would then be in the same position in regard to rating as European lands.’¹⁹⁰

A further point to bear in mind with classification is the discrepancy between the tribe’s understanding of lands to be classified as exempt, and that explained by the consolidation committee to the local bodies. In their resolution at Te Tokanganui a Noho, Ngati Maniapoto referred to ‘Ko nga whenua e takoto noiho ana kaua e utu reiti. Nga whenua kaore i whai huarahi kaua e utu reiti.’ The tribe was adamant that unoccupied or unutilised lands should be exempt, and similarly those not served by access. Ngata’s request to Waitomo County Council was for the exemption of inaccessible properties and those *unfit for settlement*. It is a small, but vital distinction.

3.3.5 *Land development*

As Ngata well knew, and Ngati Maniapoto too, the granting of titles in and of itself would not solve the issue of meeting rates payments. The other essential element of consolidation was the provision of financial capital to enable Maori to farm their rationalised titles – reflected in the government’s agreement in October 1927 to provide up to £250,000 to assist Maori land development. It is noteworthy that there is no mention of such land development assistance in the minutes of the committee’s negotiations at Te Tokanganui a Noho, nor, for that matter in any of the newspaper reports of the committee’s activities, but it is very difficult to see why Maori would have been interested in consolidation without such an incentive. In the opinion of Rolleston the local MP, Maori in the Rohe Potae were not interested in farming. There was in fact limited Maori dairy farming in operation at this time (see Chapters 9-10), and certainly the larger iwi had called for development assistance to a younger Ngata in 1907. Ngata’s reply to Rolleston, that if Maori in the King Country did not want to farm their land, the improved, consolidated titles would enable them to lease or sell it, hardly seems the kind of sales pitch he would have used on an iwi already angered by the threat of rates charging orders against their lands.

When consolidation was first mooted, it was generally envisaged by Coates and his Pakeha colleagues that the associated land development assistance offered to Maori landowners would be on a small scale. As Colonel Allen Bell pointed out, Maori already had the land and would only need assistance for improvements and stock. Coates agreed that Maori farming should start ‘in a small way’, predicting that

¹⁹⁰ *King Country Chronicle*, 14 April 1928, MA 31 4*4; DB:938

£1000 would meet nine-tenths of the cases.¹⁹¹ Small-scale development advances from the Maori Land Boards were provided for in the Native Land Act 1926. The Native Land Amendment Act 1928, too, provided for Maori Land Board funding of farm development for communally owned lands. Ngata however had bigger ideas, borrowing from principles which had been adopted for the development of Crown land by this time. This involved the development of large areas of Maori land, before carving it up into individual farming units. When he took over from Coates as Native Minister in November 1928 he was able to begin Maori land development on a much grander scale, provided for in the Native Land Amendment and Native Land Claims Adjustment Act 1929.¹⁹² This of course, was after the rates compromises of Te Rohe Potae were negotiated in April 1928, which means that the prospect of specific large-scale development could not have been part of the brokered deal. In fact, hapu within Te Rohe Potae preferred small-scale advances, and Pei Jones was subsequently hard-put to convince Maori communities to place their lands under State-controlled development.

It is important to keep both of these vital elements – classification and land development assistance – in mind when regarding subsequent developments, for without a commitment to both, there is very little left in consolidation of appeal to Maori of Te Rohe Potae.

3.3.6 Spending the rates compromises

Given that the payments the local bodies received were for rating liabilities attached to Maori lands, and which were to be recouped from landowners in cash or land, it seems a reasonable expectation that this revenue would be spent on works of benefit to those Maori ratepayers. The Under-Secretary of Public Works suggested as much in October 1928 when faced with a request for access to the farming community at Taharoa.¹⁹³ Moreover, in the case of Kawhia County Council, it had argued to be included in the rates compromise in the first place partly on the basis of the number of Maori dairy farming in the county. It is not known how most of the local authorities spent the welcome ‘windfall’. Given the prevailing rhetoric that Maori benefited from existing services it is likely that little was targeted for specifically Maori purposes. The anticipatory musings of Te Kuiti Borough councillors, that the revenue could be ‘trebled’ by attracting further public works subsidies, suggests that the repayment of debt with the sums was not a local body priority. With regard to Kawhia County, local legislation passed months after the compromise agreement provided that, notwithstanding anything to the contrary in the Counties Act 1920, the county council was not required to apportion the £3130 received among the riding accounts,

¹⁹¹ ‘Deputation to the Right Hon... on the Subject of Native Rating’, 19 October 1927, MA 31 4*4; DB:910, 913

¹⁹² C Marr, *The Alienation of Maori Land in the Rohe Potae (Aotea Block) part 2:1900-1960*, p 106

¹⁹³ Engineer in chief and Under-Secretary Public Works to Under-Secretary Native Department, 17 October 1928, MA 1 497 22/1/269 part 1; DB:713

in proportion to the lands the payment derived from. This principle was reiterated generally in Section 16(4) of the Native Land Amendment and Native Land Claims Adjustment Act 1928, which stipulated that although the compromise payments were to be treated as a pro rata satisfaction of all the rateable properties, it was not necessary for the local body to apportion the sum among the riding accounts. This was repeated again in legislation of 1931.¹⁹⁴ In effect, unlike Pakeha ratepayers, Maori were not guaranteed service as a result of the 1928 rates compromise.

The special provision for Kawhia County in 1928 undoubtedly arose from the demand by Maori farmers at Taharoa that part of the money be used to provide access to their farming operations (10.1.1). A delegation headed by Tuteao attended the monthly meeting in July to put their case.¹⁹⁵ It was not the first time they had asked for access, an earlier request had apparently been turned down by council, but the farmers were encouraged to ask again on account of the payment for Maori rates arrears. Tuteao claimed that 300 Maori were engaged in the business of farming on Taharoa lands, an area of 16,887 acres. In addition to running sheep and cattle, many of them were supplying cream to the local factory. Te Maika was eight miles away, and for five miles of this farm produce had to be carried over a dangerous track. The delegation was after a portion of the settlement – £1000 – and their request for road formation was supported by Marae Edwards of Kawhia, who observed that Taharoa was the only considerable area in the county which had absolutely no access.

The council had other plans for the money. Within weeks of securing the agreement with Ngata, the council had written to the Minister of Public Works, proposing that the government provide a 4:1 subsidy for the metalling of the Kinohaku-Awaroa-Kauri Road – the Harbour Road – the £3000 consolidation payment constituting the county's share.¹⁹⁶ This would provide £15,000 of the estimated £18,000 to do the work, the county council promising to raise the shortfall. In this letter the council also asked for a free grant to complete the formation of the Kinohaku-Waiharakeke portion of the road. This plan was explained to the Taharoa delegation in July, the chairman arguing that 'to split it up would mean that only that amount would be available', whereas attracting a large subsidy for the harbour route would benefit the whole County.¹⁹⁷ He recommended the deputation apply directly to the government for a grant, which the council would endorse. To this was added the logic that if the council conceded to the request of the

¹⁹⁴ Section 536(4), Native Land Act 1931

¹⁹⁵ 'Native Rates Arrears: claim from Taharoa Maoris', newspaper article in Kawhia County Council Minute Book vol 3, opposite p 67; Digital DB

¹⁹⁶ Kawhia County Council clerk to Minister Public Works, 25 May 1928, AATE A986 290c 22/486, ArchivesNZ Auck; DB:1616

¹⁹⁷ 'Native Rates Arrears', in Kawhia County Council minute book; Digital DB: Local Body Records/Otorohanga District Council

deputation, claims would come in from other parts of the county and very little visible good would result from the money. Tuteao was gracious enough to thank the council. He understood the reasoning, but he pointed out that metalling the Harbour Road would be of very little use to Taharoa, which would still be without an outlet. In November Pakeha settlers on the south side of the harbour added their protest to the council's decision.¹⁹⁸ They, too, reminded the council that 25 years on, certain localities had little more than a clay road, and that Maori dairy farmers at Taharoa had no road at all. Access to back-country areas, it was argued, was more pressing than metalling the harbour road which in any case had water carriage. After a 'full discussion', the chairman promised to attend another ratepayer meeting in Kawhia South and explain the council's policy.¹⁹⁹

The reminiscences of WE Anderson, an early Pakeha arrival to Kawhia who spent the rest of his life farming in the district, tell of a different sum – £1000 – and a slightly different purpose – to form the original harbour track rather than to widen and metal the existing one. Whether or not a previous payment was made, or whether Anderson's facts got a little awry with the passing of time, his account substantiates the general conclusion that Maori rates arrears were put principally to advance Pakeha interests:

It was during Babbage's chairmanship, as had often been done before, that they applied to the government to enable the County Council to collect rates from the Maoris. On this occasion, however, the government gave the Council £1000 in place of rates. The question was where to spend it. The southern end of the county wanted it spent at their end of the county. Babbage's plan, which he and I discussed, was to make a road through Maori owned land between the white settlers' farms at Oparau, Kauri and Awaroa and the white settlers of Kinohaku, Te Anga and Marokopa, connecting Awaroa with Kinohaku at the southern end – a distance of about ten miles. The only recognised connection between the two was a ride of 15 miles from Awaroa to Kawhia and then by launch from Kawhia. It was, of course, possible to get across this area of Maori owned country but there were no farms on it and to find the way you would need a guide. He considered it would be a very important connection both for Maori and Pakeha and the whole country. Babbage carried his scheme through the County Council and it became a most important connection between the two sale yards, Te Anga and Oparau. It was a clay road and only used by riders. It had to be widened later when cars came into use.²⁰⁰

The continuing lack of access to the Taharoa farming community is the subject of Chapter 10.

¹⁹⁸ 'The Harbour Road', newspaper article in Kawhia County Council minute book, vol 3 opposite p 68; Digital DB

¹⁹⁹ Kawhia County Council minute book vol 3, p 67; Digital DB: Local Body Records/Otorohanga District Council

²⁰⁰ WE Anderson, reprinted as 'Kawhia District V', *Journal of the Te Awamutu Historical Society*, vol 5, p 69

3.3.7 *The two-year timeframe*

When consolidation was first mooted early estimates had considered the process might take up to seven years. The two-year timeframe the consolidation committee fell on to sell the idea to the King Country local bodies proved hopelessly optimistic. Short-staffed and working in a cramped office, by October 1929, 2541 titles had been searched and cross-checked against erroneous local body records and brought up to date in terms of valuation. Jones reported that:

The schedules lodged by the local bodies had to be reconciled with our records; a task which involved a considerable amount of searching, and which revealed the fact that in some cases the rates were owing by Lessees, and that owing to defects in the County rolls lands which had ceased to be Native owned were still being treated as Native lands. In some cases Crown lands have had rates levied and were included in the schedule as Native lands.²⁰¹

One spin-off from consolidation was the opportunity to correct the local body records. The careful accounting of land interests meant that Consolidation Officer Pei Jones was in a unique position to advise councils of inaccuracies in the rating assessments. When Waipa County Council sent in arrears details for the Kakepuku riding for a further compromise in September 1931, Jones wrote back with 12 corrections to their information.²⁰² Four of the assessments were urupa, and a fifth a pa tuna, which should not be rated. He also drew the clerk's attention to leases and partitions, and incorrect land descriptions.

In terms of actual field work to bring about the necessary exchanges of interest, Jones reported that a lot of initial effort had been spent on 'conversion': persuading the Maori landowners that consolidation was in their best interests. As he pointed out, the degree to which the scheme could progress was dependent on the willingness of owners to come forward with their proposals. The first 'instalment' of consolidation was gazetted in March 1930 – just making the deadline – affecting lands in or near Te Kuiti. Jones had wisely started on the easiest blocks: most of the properties were already surveyed and farmed by those for whom the consolidation orders were made out, or else were town sections in the borough on which the owners had built homes or which were under lease. It was an auspicious beginning, for the prospective farmers among them were said to have raised loans with the Maori Land Board, or were contemplating doing so, in order to improve their lands. The consolidation team had been unable to sink the rates debt in one defined block, so instead the portions that each block owed to the Crown for the compromised rates were charged against the land.²⁰³ But it was also a drop in the ocean: 1450 acres of an estimated 500,000.

²⁰¹ 'The King Country Consolidation Scheme', nd, MA 1 29/3/1 part 1; Hearn DB:9/130

²⁰² Consolidation officer to clerk, Waipa County Council, 8 September 1931, 2/19/3 Waipa DC; DB:2187

²⁰³ Judge MacCormick to Native Minister, 13 February 1930, in above; Hearn DB:9/119

By the winter of 1929 the consolidation committee had still not begun to review lands within Kawhia County. In July the council approached Ngata regarding the possibility of ‘another little payment’ in light of the fact that the deadline of 31 March 1930 would obviously not be met. The Minister of Lands had decided against preparing further Crown land in the county for settlement and Ngata was also asked to consider making available for Pakeha settlement the ‘big area of Native land practically immediately available for settlement and not required by Natives.’²⁰⁴ In reply, the council was told that consolidation officers would hopefully visit the county in the spring to consider the extent to which consolidation was necessary and the possibilities of settlement.²⁰⁵ Waitomo County Council waited until September 1929 to inquire whether the scheme was on track for Maori lands to be put back on the valuation roll ‘on the same basis as European land’.²⁰⁶ It informed the committee that a number of individualised, occupied properties warranted returning to the roll in March, even if the general scheme was not sufficiently advanced. This was no doubt a reference to the lands which were in fact gazetted by March 1930, referred to above. The following month the Te Kuiti Borough Council wrote in with a similar reminder of the promises made in April 1928.

To all of these inquiries, the same response was given: no, the consolidation scheme was not yet complete, and no lands would be ready to reinstate on the valuation rolls. In some cases the Native Minister’s response was tardy: after further prompting in January 1930, Waitomo County Council was advised that the exemption would need to be renewed.²⁰⁷ This followed advice from Pei Jones that although there were individually owned blocks, ‘adjustments’ were still to be made to take into account the amount owing on each as a result of the rates compromise.²⁰⁸ The council resolved to exempt the lands for another 12 months at their monthly meeting in February 1930. The extension was gazetted on 27 March 1930, but a deliberate decision was taken by the Native Department not to place a time limit on the new exemption ‘should it unfortunately be found necessary to ask for a further concession’.²⁰⁹

In November 1930 Waitomo County Council attempted an ultimatum, requesting the reinstatement of the lands on the valuation roll by the 31 March 1931. The Native Minister was told that any further extension should be met by a further compromise payment for the lost revenue.²¹⁰ When the council had still not received a reply in January, it turned to the local MP, also Te Kuiti mayor, WJ Broadfoot to chase the

²⁰⁴ Kawhia County Council clerk to A Ngata MP, 18 July 1929, in above; Hearn DB:9/140

²⁰⁵ Native Minister to clerk, Kawhia County Council, 22 July 1929, in above; Hearn DB:9/139

²⁰⁶ Waitomo County Council clerk to chairman, Consolidation Committee, 3 September 1929, MA 1 413 20/1/45, ArchivesNZ Wgtn; DB:579

²⁰⁷ Under-Secretary Native Department to clerk Waitomo County Council, 30 January 1930, in above; DB:583

²⁰⁸ Consolidation officer to registrar Auckland, 15 October 1929, in above; DB:581

²⁰⁹ Note file, Judge Shepherd, 12 March 1930, in above; DB:585

²¹⁰ Waitomo County Council clerk to Native Minister, 19 November 1930, in above; DB:588

issue. Pei Jones subsequently met with the council clerk to discuss the matter. The county sought a further £3000 payment to extend the exemption for a further two years, to 31 March 1933. In doing so it would also consider the future exemption of unoccupied Maori land incapable of being developed or alienated, of poor quality, lacking proper access, and milled timber areas unsuitable for farming. Jones reported that the landowners had not been ready to place their lands back on the roll, and that he had been given 'a free hand' to 'make the best arrangements possible'.²¹¹ The consolidation officer recommended a reduced offer of £2500, on the basis that 'a fair proportion' of the rates claimed by the council included such unfit lands. Ngata's response was cautious: a further compromise with Waitomo would create a precedent for the other local bodies in the district.

Taumarunui Borough Council asked for further compromise in February 1931. Consolidation in the borough had not yet begun. It was told in March 1931 that a further compromise was not possible.²¹² Kawhia County Council was also asked at this time by the consolidation officer to consider extending the period of exemption until March 1932. Jones had informed the council that the Maori lands in the district were not yet ready to go back on to the rating roll. In response, the Native Minister was asked whether the council could expect a further rates compromise.²¹³ This inquiry was repeated in July 1931.

Unlike Waitomo or Kawhia counties, the Maori lands within Otorohanga County had not been declared exempt. Otorohanga County Council had instead observed the agreement until March 1930, and then put the assessments back on the roll. The clerk had travelled to Auckland to correctly identify the landowners, to which demands had been sent. The return for the 1930/31 year however, had been a disappointing £33 from the £1398 levied – 2.4 per cent. In May 1931 the aggrieved council approached the Native Department for a further compromise of £682, being 50 per cent of the annual levied rate.²¹⁴ 'Many Natives own Motor trucks and are successful tenderers in the County Contracts and, therefore use the roads for business purposes' the council argued, 'it is only fair, just and equitable that the Natives pay at least a portion of the rates due.'²¹⁵

Further compromise arrangements were considered by the Native Department. Jones was asked to gather the relevant details including what the respective councils would be prepared to accept. By September 1931, in addition to Waitomo, the county councils of Waipa and Taumarunui, and the borough of Te

²¹¹ Consolidation officer to registrar Auckland, 26 February 1931, in above; DB:590

²¹² Native Minister to clerk, Taumarunui Borough Council, 27 March 1931, MA 1 29/3/1 part 1; Hearn DB: 9/88

²¹³ Kawhia County Council clerk to Native Minister, 10 March 1931; 'Maori land' 233033, Otorohanga DC; DB:1680

²¹⁴ Otorohanga County Council clerk to Officer in Charge, Native Department, 6 May 1931, MA 1 29/3/1 part 1; Hearn DB:9/85

²¹⁵ Ibid

Kuiti, had responded to his inquiry and indicated that they would be interested.²¹⁶ The country was in the grip of global depression, the rock-bottom prices for wool and mutton not meeting the costs of production. Local bodies everywhere were feeling the pinch. A ratepayers' meeting in July 1931 resolved to petition the Ministry of Works about the injustice of having to pay for the maintenance of the main highways through Waitomo County. In the tough economic times the expenditure left little over for the maintenance of district roads of importance to farmers. Although Maori land was raised as an issue at the meeting, it was downplayed, the main thrust of the petition focussed on the issue that motorists, not ratepayers, benefited from the use of the main highways, and that maintenance should no longer be a county responsibility.²¹⁷ The issue of de-rating was also raised. The petition was passed on to Ngata by the Minister of Works to consider a further compromise. Ngata refused. In November 1931 the council wrote again, put out at the lack of response.²¹⁸ The news from the Native Minister in December 1931 that no further compromise payments could be made in the current financial circumstances was taken as a breach of good faith. In February 1932 Waitomo County Council requested that the exemption be cancelled. The order in council was cancelled on 7 March 1932, and Maori lands within the county were reinstated on the valuation roll.

The end of the 1931/32 financial year drew another spate of requests for compromise. A more subdued approach from Otorohanga County Council, in March 1932, was nonetheless turned down 'owing to the financial position'.²¹⁹ Raglan County Council too, not party to the 1928 compromise, tried its luck for departmental reimbursement at this time:

It seems rather hard that this County has had no payments while other Counties around have received some large sums. Our roads are fairly well laid down and are used largely by Natives who really pay nothing towards the upkeep of some. I trust you can do something in the matter, as our European ratepayers require all the assistance they can get.²²⁰

The council was told that a compromise under consolidation would first require the agreement of landowners to set aside land in lieu of the Crown reimbursement, which had not been done in Raglan. 'But in any case there is no hope, in view of the present difficult times, of any money being available this

²¹⁶ Consolidation officer to Under-Secretary Native Department, 18 September 1931, in above; Hearn DB:9/70

²¹⁷ *King Country Chronicle*, 18 July 1931, MA 1 413 20/1/45; DB:593

²¹⁸ Waitomo County Council clerk to Native Minister, 19 November 1931, in above; DB:597

²¹⁹ Under-Secretary Native Department to clerk, Otorohanga County Council, 6 April 1932, in MA 1 29/3/1 part 1; Hearn DB:9/84

²²⁰ Raglan County Council clerk to chairman, Consolidation Committee, 25 May 1932, MA 1 29/3/1 part 2; Hearn DB:9/368

year for the purpose of satisfying rates.’²²¹ In May 1932 Taumarunui Borough Council’s inquiry about the possibility of a further compromise was accompanied by the news that it intended to apply for charging orders to the value of £1100.²²² The council favoured a further compromise over the legal expense involved with rates charges and claimed that this course was also favoured by local Maori. Jones was directed to investigate the veracity of the claim, but the Under-Secretary noted that ‘There is no money available in any case.’²²³

By April 1932 at the behest of the Counties Association executive, Members of Parliament representing districts with significant areas of Maori land were back to impress their concerns on the Prime Minister, now GW Forbes, and Native Minister Ngata. The deputation was led in the main by interests on the East Coast, where Maori land development had been pioneered, and where local bodies now expected some return. Maori, Ken Williams MP, argued:

must be taught that where they were getting advantages as citizens of the Dominion and the Empire they must shoulder their fair share of the responsibilities that that civilisation demanded. Some alteration must be made whereby it would be impressed upon them that it was their duty to pay their rates.²²⁴

Ratepayers, he went on, realised that unproductive land held in common should not be forced to pay rates, but when such lands came into production and if the owners had the use of all the facilities provided by the ratepayer, then those lands too, should contribute. The newly elect WJ Broadfoot MP was part of the deputation. He spoke last, pointing out that the issue was a national one, and that if it was to be the policy of successive governments that rates should not be paid, the Consolidated Fund should foot the bill. He claimed that the situation was worse in the King Country because ‘the psychology of the people there had been spoilt by rents and royalties.’²²⁵

In response, Ngata claimed that consolidation had come to a standstill partly because of the lack of funding, and further compromises were not possible for the same reason. Sensitive to criticism that as Native Minister he would not agree to the enforcement of charging orders through the sale of land, he pointed out that no Native Minister had done so, even Herries. He offered the delegation the prospect of doing so, ‘to make an example’ in those districts most affected.²²⁶

²²¹ Native Minister to clerk, Raglan County Council, 28 May 1932, in above; Hearn DB:9/369

²²² Taumarunui Borough Council clerk to Native Minister, 13 May 1932, in above; Hearn DB:9/367

²²³ Ibid

²²⁴ ‘Native Rates: non-collection of...’, 13 April 1932, MA 1 402 20/1/1 part 2; Towers DB:606

²²⁵ Ibid, Towers DB:611

²²⁶ Ibid; Towers’ DB:618

3.3.8 *Land development*

In October 1932 the Te Kuiti chamber of commerce inquired about the progress of consolidation: when it might expect to be completed, and whether Maori land would then be ‘on the same footing’ in all rating respects as European land.²²⁷ Three ‘instalments’ had been completed by this stage, affecting around 46,800 acres, and all in Waitomo County. In his response Ngata attributed the slowdown in consolidation activities to the economic times and added that it would take ‘some time yet to complete.’ Refusing to be drawn on the issue of recovery, he merely repeated the expectation that once the titles had been consolidated and reinstated on the roll, ‘many of the difficulties that exist in regard to the effective collection of rates will be removed.’²²⁸ The news prompted a discussion which indicates that local Pakeha businessmen had finally grasped the import of title consolidation. In a response to Ngata, the Te Kuiti Chamber of Commerce pointed to the freehold system of land in New Zealand based on the undivided ownership of title and the consequent freedom of alienation, a system which benefited the individual, the local authority, and the State. Maori freehold land titles on the other hand, were burdened with the ‘monumental edifice of records’, wrought by multiple ownership and ‘rendered increasingly more and more difficult by an unending chain of successions, exchanges, partitions and other dealings.’ The chamber’s argument was that the complexities of Maori freehold title made private settlement impossible, leaving districts with idle Maori land with the consequences of uncollectable rates. Ngata was urged by the chamber to continue title consolidation at full speed:

The position will increase in complexity as time goes on and it will be impossible for either the owners or any one else to establish a sufficient proprietary interest to provide an incentive toward settlement. It is possibly no exaggeration to say that under the present system posterity can only see unoccupied Native Lands for ever.²²⁹

As Hearn recounts, by this time consolidation had in fact taken a back seat to land development. Over the summer of 1929/1930 Ngata had toured Te Rohe Potae with a view to future development schemes. By March 1932 four such schemes had begun, in Kawhia, Oparure, Mahoenui and Waimiha, with the Maori Land Board administering the Te Kuiti base farm. By 1936 there were 12 such gazetted schemes, occupying a total area of 38,813 acres.²³⁰

²²⁷ Secretary, Te Kuiti Chamber of Commerce to Native Minister, 11 October 1932, MA 1 29/3/1 part 2; Hearn DB:9/356

²²⁸ Native Minister to secretary, Te Kuiti Chamber of Commerce, 3 November 1932, in above; Hearn DB:9/355

²²⁹ Secretary, Te Kuiti Chamber of Commerce to Native Minister, 10 February 1932, in above; Hearn DB:9/349

²³⁰ Hearn, chapter 5

Ngata had encountered a great deal of ‘scepticism bordering on hostility’ to proposed large-scale development in Te Rohe Potae.²³¹ While many sought financial assistance for development, he reported that the majority favoured the existing system of loans to individual settlers from the Maori Land Board and the Native Trustee. Hearn records that 48 farmers had been assisted in this manner by the Waikato-Maniapoto District Maori Land Board by 1931, advancing sums to the extent of £16,899.²³² Large-scale State-assisted development involving the mortgage of land was turned down by communities at Taharoa, Rakaunui, and others. The people were distrustful of the comprehensive State scheme which, while providing State funds for development, gave the Native Minister an inordinate degree of control over the management of their land and suspended the proprietary rights of the owners. Ngata maintained however that the small-scale loan system was breaking down for want of funds from land board sources and he disclosed to the MP delegation of April 1932 that the Minister of Finance had severely curtailed loan funds available to all departments, leaving the Native Department unsure of its ability to meet existing commitments.²³³ Requests for such assistance from Maori landowners milking at Aotea met with the response that there was no money.²³⁴ Pei Jones was increasingly diverted from his title consolidation work to persuade landowners of the benefits of comprehensive development. Ngata later recounted that the threat of forced government purchase and ‘the removal of protection from proceedings for rates’ were both used by him to obtain the necessary consent.²³⁵

In many ways this State-sponsored Maori land development ran counter to the objectives of consolidation. One of the aims of the latter had been to ‘normalise’ Maori freehold title, enabling individual Maori landowners to deal with their lands on the same basis as Europeans, including the ability to mortgage the land to obtain capital for land development, or to lease and sell. Under the development scheme model, landowners were encouraged to agree to the cancellation of all existing partitions within the area selected for development and to accept an amalgamated title. Hearn relates that such a course was intended to clear the way for re-partition into holdings of economic size with clear titles.²³⁶ One of the associated restrictions of land under both consolidation and development was the prohibition of alienation. Implemented piecemeal in the beginning, by March 1931 the restriction was extended to encompass all Maori land within Te Rohe Potae affected by consolidation.²³⁷ The blanket prohibition against alienation, which appears to have endured for the next 20 years, was a cruel re-enactment of a past

²³¹ AJHR 1932, cited in Hearn, p 185

²³² Hearn, p 162

²³³ ‘Native Rates: non-collection of...’, 13 April 1932, MA 1 402 20/1/1 part 2; Towers DB:613

²³⁴ Pei to Api, 20 May 1930, MA 1 29/3/1 part 1; Hearn DB:9/113

²³⁵ Ngata to Te Rangi Hiroa, 22 May 1940, cited in Hearn, p 188

²³⁶ Hearn, p 282

²³⁷ *New Zealand Gazette*, 12 March 1931, no 19, p 557, in MA 1 29/3/1 part 1; Hearn DB:9/94

debilitating policy: once again the inability to trade freely or to mortgage, meant that Maori were left once again without the potential to realise an economic return from their land, and without a means to meet the attendant rates liability. The net result of government policy was once again to turn their land asset into a liability.

3.3.9 Falling through the gaps

If the rates compromise associated with consolidation were to cover the liability of all Maori land in the affected local government districts, including the discharge of existing charging orders, what then was the status of lands for which vesting orders had been made for the non-payment of rates? In August 1935 the Auckland registrar admitted that the position of these lands was ‘a little obscure’.²³⁸

The registrar’s comments were in reaction to the complaint of Tohe Herangi to Acting Native Minister Marsters in Te Kuiti in 1935 that the borough council had taken 5½ acres of his land, under what authority he did not know. Herangi claimed no notice had been given, so that he could not object to the taking, and nor were the council using the land for any public purpose.²³⁹

The block was Part Te Kuiti 2B1B, the first to receive the Native Minister’s consent for vesting in the Native Trustee for sale, in June 1927 (see 3.3.1). Coates had ultimately consented to the order on the advice of Judge MacCormick that leasing the flood-prone land for grazing under receivership provisions could not hope to meet the rating debt incurred on the ‘preposterous’ 1917 government valuation of £900. Once the order was signed, the title was transferred to the Native Trustee who set about trying to sell the land with a reserve price of £300. No bids were received. In July 1932 the Te Kuiti Borough Council’s offer of £50 was accepted by the Native Trustee, and the transfer was made, the trustee later explaining: ‘It was assumed that this money was apart from any rate liability to the Borough so that any rates owing would be wiped out by the Council.’ The purchase monies, less costs, were paid to the owners in February 1934.²⁴⁰

Yet Part Te Kuiti 2B1B, though vested in the Native Trustee, was included in the rates compromise of 1928. It was included in the schedules presented by the Te Kuiti Borough Council to the consolidation committee, although the debt of £117 had been inflated by the council to £277 10s 8d. No doubt the increase was based on the compromise formula at work, including the projected rates up to March 1930, with the total then quartered to give a compromised rating debt of £69.

²³⁸ Auckland registrar to Under-Secretary Native Department, 28 August 1935, MA 1 1412 1927/78; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1927-78

²³⁹ Acting Native Minister to Under Secretary Native Department, 12 June 1935, in above

²⁴⁰ Langdon, ‘Te Kuiti 2B1B’, 25 October 1935, in above

The Native Department was unaware of the sale to the council. According to its records, the vesting order, though consented to, had never issued. As a result of Herangi's complaint in August 1935 the registrar suggested that if the borough council agreed that the rates due in October 1925 had been extinguished by the rates compromise, steps could be taken to cancel the vesting order.²⁴¹ Two days earlier Herangi had been told by the Acting Native Minister 'kei a koe tonu to whenua'.²⁴²

The approach to the borough council belatedly brought the news of its 1932 purchase of the land. With regard to the inclusion of the property in the rates compromise, the council stated: 'The amount of £277.10.8 shown in the schedule submitted by the council for the Rates Compromise in 1928 was apparently in respect of this property but it was not intended that the Order should be cancelled.'²⁴³

The fate of Part Te Kuiti 2B1B tends to cast the whole local body rating paradigm in operation at this time, including the 1928 rates compromise arrangements, as one of smoke and mirrors. The unoccupied, unproductive section was charged with a rating debt based, by the court's own admission, on preposterous land values; the inability of the land to sustain this debt becoming in turn the rationale for enforcing the charge by vesting it in the Native Trustee for sale. The 'preposterous' value of 2B1B was not an isolated incident, throwing the whole basis of local body pressure for rates, together with the figures for compromise into serious question. The inclusion of the land in the compromise schedules presented by the council itself should have meant that the charges were extinguished, and the vesting order cancelled. This was how the arrangement was understood by the landowners in agreeing to consolidation. And despite its assertion to the contrary, this was also the deal offered to the council. That this rating liability once again became the rationale for accepting a nominal price for the land from the rating authority itself, was the final irony. If nothing else, the conduct of the Te Kuiti Borough Council appears underhand and seriously lacking in good faith.

3.6 Conclusion

For most of the first two decades of the twentieth century it could be said that both the Crown and Maori turned a blind eye to the blanket rating liability over Maori freehold land. Within Waitomo County those who were able to pay – the 78 ratepayers listed on the rating roll occupying 9000 or so acres in production in 1914 – did so, but the bulk of the area of Maori land under Maori occupation, or unoccupied, could not. Inaccurate rolls and unregistered titles, compounded by the Crown's ultimate refusal to have Maori land sold for rates, meant that Maori amalgamation into the local government regime was largely theoretical.

²⁴¹ Auckland registrar to Under Secretary, 28 August 1935, in above

²⁴² Acting Native Minister to T Herangi, 26 August 1935, in above

²⁴³ Cited in Auckland registrar to Under Secretary Native Department, 13 September 1935, in above

By the end of the First World War, government could no longer afford to ignore the clamour from local authorities. High levels of local body debt were caught short by economic recession and falling land values. The debt had been incurred largely without the sanction of Maori, but local bodies depended on the rates from Maori land within special rating districts to pay it back. The pressure eventually resulted in a revamp of Maori rating legislation in 1924, where rates arrears could be charged against the land to be eventually recouped by the council through receivership lease or sale.

The debate of the 1920s crystallised the issues at stake. Arguments that the requirements of settlement demanded the abrogation of unoccupied and non-ratepaying Maori land were countered by reminders of past Crown promises of undisturbed possession. The refusal of the government to enforce rates judgements against Maori land acknowledged the inequity of the rating liability, but it continued to avoid responsibility for the issue. Suggestions to assume the cost of unpaid rates nationally were dismissed out of hand, and nor was the liability repealed. As Coates admitted to Ngati Maniapoto representatives in 1927, holding back one and a half million people to be honourable and fair to a minority was ‘a little difficult’.

Consolidation was at least an attempt to deal with the underlying issues. It was based on the assumption that Maori landowners *should* pay rates and profitably use their land, as a responsibility of citizenship. But this was tempered with the acknowledgement of the very real barriers against utilisation, such as fragmented titles and lack of capital, and the fact that some liable lands were incapable of production. The multi-stranded remedy of title consolidation, classification of lands and provision of development capital, was on the face of it an equitable way to ensure the retention of Maori land, and the participation of Maori landowners into the economic and social fabric of New Zealand. In the event, Ngata’s vision was cut short by political expediency and global depression.

By March 1933, the promise of consolidation had evaporated, apparently for all sides. Diverted by land development, the Native Department’s subsequent commitment to title consolidation was minimal. In 1939 it was reported that 90 per cent of the scheme was in an ‘inchoate state’ and in 1952 it was given up altogether. In the interim, the alienation restrictions over the lands remained intact, adding further to the barriers against utilisation by the owners. The fact that the uncompleted consolidation proved to be a ‘real impediment to any effective use of the land’ was acknowledged by the Under-Secretary for Maori Affairs in 1952.²⁴⁴

²⁴⁴ ‘Memorandum: consolidation’, ABJZ 869 W4644 77 29/1 part 1, ArchivesNZ Wgtn, cited in Hearn, p 114

Local bodies had received a one-off payment, but no lasting remedy. By the end of March 1932 most of the King Country local authorities had reinstated Maori assessments back on the roll and were faced with the familiar problems of non-collection and a return to the charging order provisions of the 1925 Act. By July 1932 for example, Waitomo County Council was once again bemoaning the increased hospital board levy and the 'extensive hardship ... caused to local authorities who are thus unfortunate enough to have large numbers of Maoris within their boundaries.'²⁴⁵ Consolidation had not in fact produced a Maori freehold title that put them 'on the same footing' as European ratepayers. In April 1933, as a result of renewed local body pressure, government announced the establishment of another commission of inquiry into the rating of Maori land.

And for the tangata whenua of Te Rohe Potae? Their combined lands now bore a charge of over £16,000. Except for a small number of completed consolidated titles, the bulk of their lands were burdened by the same barriers against effective use, made arguably worse by the prohibition over alienation. The promises over the classification and exemption of non-productive lands had not been fulfilled, nor indeed were they likely to be, given that 'the good faith' on which such promises rested, had been severely tested by the government. And contrary to the small-scale financial assistance to get them into the business of farming their holdings, the only development model held out to them was that of a government scheme which insisted on the abrogation of their ownership rights. On top of all this, by 1933 they faced the resumption of a local body barrage after rates.

²⁴⁵ *Waikato Times*, 22 July 1932, MA 1 413 20/1/45; DB:600

Chapter 4

Local Burden v. National Responsibility, 1933-1945

By 1932 it was clear to local government that consolidation was not to be their salvation. Unable to convince the government to consider further compromise, local bodies were left with the ‘broken down’ charging order and receivership provisions of the 1925 Act to recover rates. They continued to argue that to enforce the collection of Maori rates was impossible under the Act, and for the next ten years a concerted lobby was mounted to either give local bodies the power to enforce the liability, or to have the State reimburse local government the cost of non-payment. Government, for its part, continued to insist that the existing provisions went as far as it was ‘reasonably possible for the Government to go.’¹

The Government also continued to argue that land development held the solution to problems of non-payment. In turn, the growing engagement of Maori in the business of farming wrought a change of rhetoric in the rates debate. Emanating initially from the East Coast, throughout the decade of the 1930s the determined local body call for more practical enforcement was focused increasingly on extracting revenue from the newly-developed lands, on the principle that ‘Where land is producing we want our share’. The converse principle, that the possibility of collecting rates from non-producing Maori land ‘should not be seriously considered’ was also honed at this time. The result was a renewed interest in the classification of Maori land for rating purposes, based on the ability of the land and its owners to produce revenue to pay rates.

Within Te Rohe Potae, the extent of Maori production was limited. Land development schemes introduced to the region from 1930 touched but a small portion of the thousands of acres lying undeveloped, and still being levied for rates. If these lands were to be classified as non-productive and taken off the roll, who then was to bear the cost?

The following chapter begins with the 1933 Rating Commission evidence taken in Te Rohe Potae, which gives both an insight into the economic forces at work and the issues in the debate to follow. The chapter then sets out the nature and extent of local body pressure and the government response over the following

¹ See for example Under-Secretary Native Department to all judges, 6 October 1935, MA 1 402 20/1/1 part 2; Towers DB:568

decade, with particular regard to the King Country entities. The polemic surrounding the payment of rates from Maori land has been organised into a discussion of existing practice, the idea of classification, and that of Maori land development. Maori landowners themselves were markedly absent from this debate.

4.1 1933 Rating commission

The 1933 Rating Commission that toured the North Island counties most affected by Maori non-payment – Te Tai Rawhiti, Te Tai Tokerau and Te Rohe Potae – produced little that was new in the rating debate. The same arguments were made about Maori use of roads and the burden on European ratepayers; and the same problems were highlighted about multiple ownership, unoccupied lands, inefficient farming, and the inability of the local bodies to enforce payment. The commission consisted of an MP, Alexander McLeod; Chief Judge of the Native Land Court and former Under Secretary for Native Affairs, Robert Jones; and a local body politician, John Reid. They passed through the King Country in June 1933.

Rating statistics for the last decade were provided by many of the King Country local authorities: those for the year 1931/32 have been reproduced below.² For the counties of Raglan and Kawhia, the economic depression of this time was reflected by a reduced collection from Pakeha ratepayers, by 8 per cent in the case of Raglan and 20 per cent in the case of Kawhia. For other King Country local bodies however, the 1931/32 collections are not anomalous. Otorohanga County Council had enjoyed a consistently high collection of more than 98 per cent from its inception in 1922, while the collections from Pakeha ratepayers in both Waitomo County and Te Kuiti Borough had hovered between 65-71 per cent for most of this period, only rising over 80 per cent in 1928-29.

Table 4: Rating Statistics of Te Rohe Potae Local Authorities, 1931/32

Local body district	Area (acres)	Maori occupancy (acres)	% of county area	£ total rates levied	% total rates collected	£ Maori rates levied	% total rates	% Maori rates collected
Kawhia County	245,992	55,221	22.4	5,844	54	1,273	22	nil
Raglan County	595,200	70,000	11.8	31,500	86	1,400	4.4	0.75
Otorohanga County	384,000	34,289	8.9	13,783	86.5	1,769	12.8	6.9
Waipa County	278,400	10,096	3.6	31,624	82	507	1.6	nil
Waitomo County	716,160	108,000	15	23,365	69.4	exempt	-	nil
Te Kuiti Borough	1,668	290	17.4	9,584	81	690	7.2	8.3

² Statistics are taken from statements provided to the Native Rates Commission, in MA 1 407 20/1/14 part 3 and MA 1 408 20/1/14 part 4; DB:514-535

Within Waipa County, the area occupied by Maori was so insignificant that the county solicitor admitted the non-payment of rates was not a big issue. Most of the Maori land in the county lay in the Kakepuku and Orakau ridings, 'Ngati Maniapoto' areas the county had inherited as a result of the 1922 restructuring. The council periodically wrote these unpaid rates off, rather than try to collect the amounts through charging orders, because it was cheaper to do so. For the Waipa County Council, the issue was not so much one of unpaid rates, as that of utilisation, or under-utilisation, of good land. Maori were dairy farming in the Orakau riding, but only 'in the Maori way.' Unused, 'derelict' Maori properties surrounded by European land were said to present problems in terms of noxious weeds and rabbits, and the council informed the commission that proceedings had begun under Section 109 of the Rating Act 1925 to have these properties vested in the Native Trustee for sale. In the opinion of the council, the leasing of such land by a receiver to secure the unpaid rates would not be of any permanent use, for when the rates were paid, and the land returned to Maori ownership, 'the existing state of affairs would recur, and the land still be left derelict for rates to accumulate again.' Rather, the council wished to 'clear up the position once [and] for all; and this can only be done by sale of the land.'³

Kawhia County Council was represented by its chairman and clerk. Sharing a geographical area similar to that of Waipa County, the economic disparities between the two, caused in part by the different experience of Pakeha settlement, could not have been greater. Kawhia County Council's reaction to Ngata's refusal of another rates compromise in 1932 was to consider once again 'the matter of levying rates on Native land.' In October 1932 the registrar of the Native Land Court had been asked to supply the owners' names of multiply-owned land that were listed in the roll as 'Natives', a request that was reiterated three years later.⁴ The figures supplied to the commission indicate that rates were levied on Maori land from the 1930/31 year onwards.⁵ This is at odds with the legal exemption from liability under the gazetted notice still in force.⁶ It is also at odds with the county chairman's wider reference to the commission regarding 'thousands and thousands of acres of Native lands, and no Council would ever dream of putting a rate on them.'⁷ According to the chairman, taking out charging orders against unoccupied and multiply-owned land was futile, both in terms of collection and future settlement.

Of the 108,000 acres listed in the Waitomo County Council rates books as occupied Maori land, a third of this – 36,000 acres – was described by the county chairman as completely unimproved. Of the remaining

³ Swarbrick, 16 June 1933, Minutes of the 1933 Rating Commission, p 460, MA 1 407 20/1/14 part 2; Digital DB

⁴ Kawhia County Council clerk to registrar NLC, 26 October 1932, 233033 Maori land, Otorohanga DC; DB:1682

⁵ 'Kawhia County Council, Native & European Statistics 1924/33', MA 1 408 20/1/14 part 4; DB:535

⁶ New Zealand Gazette, no 22, p 856

⁷ Morris, 1933 Rating Commission, p 467; Digital DB

72,000 acres, little more than half of this area was acknowledged as being 'in actual occupation'. Carving up the Maori acreage in a different way, Chairman Walter Lee suggested that 43,200 acres was in occupation; 43,200 acres capable of occupation; with the balance, 21,600 acres, incapable of production.⁸ The council was rating the whole area, with negligible return. Lee claimed that the result of Maori non-payment was an additional rate of 1penny in the pound for Pakeha. For those in ridings with a larger proportion of Maori land, the extra 'burden' was worse.

Lee's remedy was classification: lands in actual occupation to be subject to rating on the same basis as Pakeha land; lands capable of occupation to be rated on the same basis as Crown lands – exempt from general rates, but liable for special rates (to be paid by the Consolidated Fund) – until such time as they were occupied; and those incapable of occupation to be removed from the roll altogether. Well aware that Maori lacked the means to pay, Lee proposed that pending 'some scheme', the money would come from the Consolidated Fund: 'the Native Rate problem has not been created nor is it artificial. It simply came into existence in the natural course of events and is a very real fact.'⁹ The problem, he maintained, 'should be dealt with as a National Concern until such time as it is constitutionally remedied.' When the commission pointed out that the council could already remove lands incapable of production from the roll, Lee responded that Waitomo County Council would be willing to do so once the other conditions were met.¹⁰

Although much was made of the Maori default, in fact 50 per cent of the rates liable from the Pakeha lessees of Maori land within Waitomo County had not been paid that year. Lee maintained that it was impossible to recover such rates from the occupier and Phillips, county chairman of Otorohanga County Council, concurred: 'We have sued a lot of them, and a lot of them have left the district. We cannot get money out of them.'¹¹ Lee pointed out that the lessee's interest in the land was not worth chasing: 'His interest was not an asset but a liability.' The abandonment of leaseholds was problematic for both counties, Phillips claiming that the area of leased land abandoned by Pakeha and reverting to Maori was increasing daily. Nor, he said, could a charging order be taken against the land (the liability falling back on the Maori owners in cases of abandonment), because by the time the council became aware that the leasehold was abandoned it was too late to meet the two year cut-off for charging order applications.

⁸ Lee, 1933 Rating Commission, p 477; Digital DB

⁹ Lee, 1933 Rating Commission, p 480; Digital DB

¹⁰ Lee, 1933 Rating Commission, p 484; Digital DB

¹¹ Phillips, 1933 Rating Commission, p 501; Digital DB

In addition to the defaulting lessees of Maori land, were those leasing Crown land, and 75 to 80 per cent of the county was said to be either Crown land, or mortgaged to the government.¹² When these lessees abandoned their holdings, the Crown only deigned to pay special rates. The net result for the county for the year just ended, was that of the £26,000 levied, only £14,400 had been collected.¹³ Once the annual debt liability of £11,000 had been paid, there was little left for hospital levies, administration, and maintenance, let alone new works.

Potts, chairman of Otorohanga County Council had his own classification scheme. He proposed that Maori land be categorised into (1) Land occupied; (2) Unoccupied land for which there was currently no demand for lease or sale; and (3) Land which had been leased ‘but which has been found cannot be economically farmed at the rental asked and so has reverted to the Natives.’ Potts argued categories 2 and 3 were ‘of practically no use to the Natives (owners) and the sooner they are sold or leased the better both in the interests of the Natives concerned and in the interests of settlement generally.’¹⁴ Potts claimed that the owners themselves did not object to the sale of their land, but the high valuations prevented them from doing so. He also argued that of the land was that occupied by Maori, only 5 per cent tried to pay rates, and he called for the simplification of procedures to enable land with rates arrears to be sold.

4.1.1 Town rating

The proceedings in Te Kuiti were opened by Mayor Walter Broadfoot, also MP for Waitomo. He pointed to the eight-fold rise in value of town lands since settlement had begun 20 years before, as a result of the £89,000 of capitals works which had been undertaken in that time. Town rates, he argued, were not based on land productivity in the same way that rural rates were, and therefore the rationale for excusing Maori non-payment on the grounds of unoccupied or non-productive lands did not apply. Maori rates in the Te Kuiti borough should be paid or the land sold.¹⁵

Te Kuiti Borough Council rated on the unimproved value, arguably shifting the burden off those who had prospered. In Broadfoot’s evidence, Maori land was said to account for 5.6 per cent of this – scarcely a crucial amount one might think – and certainly not a proportion to make or break the borough finances. This differed from the figures submitted by the council shown in Table 4. According to Broadfoot, there were 77 Maori assessments in the borough, the occupiers of which were listed as ‘natives’ on the borough roll. However almost double this number of town properties were Crown-owned, a legacy of the borough’s successful lobby over a decade before to have the leasehold titles converted to freehold, with

¹² Clerk, Waitomo County Council, 1933 Rating Commission, p 495; Digital DB

¹³ Lee, 1933 Rating Commission, p 494; Digital DB

¹⁴ Potts, 1933 Rating Commission, p 497; Digital DB

¹⁵ W Broadfoot, 17 June 1933, 1933 Rating Commission, p 470; Digital DB

the Crown acting as middleman. The subsequent renegeing by lessees on the agreement to purchase the freehold had left the Crown in possession, the sections lying dormant, and the Crown not liable for general rates. Broadfoot claimed that the ‘fabulous’ government valuation of these sections meant that no one was interested in either purchase or lease. (It will also be remembered that the same ‘preposterous’ valuations lay behind the vesting and sale of Tohe Searancke’s unimproved town section, see 3.3.9). The same reason was also said to be why the council had not pursued receiverships to enforce the collection of Maori rates.

Within the town district of Otorohanga all Maori land was administered by the Maori Land Board and accounted for 12 per cent of the rates levied by the town board. Of these 96 sections, only 53 were leased, the bulk of the balance being ‘tenanted at will’, an informal occupation for which, it was argued, it had proved too difficult to attach liability. The local body’s main gripe was that the board was only liable to the extent to which revenue was received, and it argued that the receivership provisions were worthless as the board was unable to lease the sections in the first place. The statistics supplied by the council show that 75 per cent of the rates on board leaseholds, and 38 per cent of those on the board’s unleased land, had been collected. The 86 per cent rates collection of the town compares well with the other local body districts at this time, and scarcely seems to justify the town board’s call to have the Maori Land Board sections sold for non-payment of rates.¹⁶

4.1.2 Drainage Boards

The drainage boards of Mangapu, Waipa, Mangawhero, and Orahiri were also represented at the commission hearing by the same county chairmen, Lee and Phillips. With regard to the Mangapu drainage district Lee, who was also the drainage board chairman, told the commission he was ‘not complaining’ about Maori rates because of the ‘liberal treatment’ the board had received from the Native Department: Maori arrears had recently been compromised in full. The drainage board had been constituted in 1926, but it was not until 1928 that the board had struck a small general rate to pay for the first permanent works. Half of the drainage district of 12,000 acres was Maori land and given the record of Maori non-payment, the board’s recent decision to borrow £8750 for capital works, secured by the levy of special rates over Maori land, has to be wondered at. Two of the inaugural board members, Tohe Searancke and Whare Hotu, were Maori and Lee later claimed that Maori ‘had been just as enthusiastic as the Europeans on the drainage question.’¹⁷ He also later claimed that the board had only considered taking on the liability because of the compromise payment, and the assurance that came with it that Maori rates

¹⁶ Phillips, 1933 Rating Commission, p 503; Digital DB

¹⁷ ‘Deputation to the Prime Minister...’, 19 March 1936, MA 1 402 20/1/1 part 2; Towers DB:540

would be paid in future. In 1933, Lee told the commission that he wanted to see the area developed: 'I do not say take it from the Natives, but I say lease it from them, letting the Natives if they so desire, retain certain sections which they desire to work.'¹⁸

The other three drainage boards were very concerned about Maori rates. Waipa Drainage Board comprised just 20 assessments, two of which were Maori land used for dairy farming. The board, a defaulter itself, had prosecuted for rates on one of the Maori properties which had resulted in the lease of part of the block by the Maori Land Board to pay the arrears. The board also intended to follow up the rate charging order for the other block with a vesting order. The board's submission however becomes somewhat perverse in light of its financial statement showing the annual rates owing for both blocks amounted to £2 8s 7d of the total £270 11s 8d levied: 0.7 per cent.¹⁹

Mangawhero Drainage Board had been unable to collect any Maori rates whatsoever. In the 1931/32 year these amounted to £12 19s 4d of the £127 13s 1d levied, roughly 10 per cent. Orahiri Drainage Board, the smallest entity with an annual rates strike in 1931/32 of £43 5s 7d, had been similarly unsuccessful in having any rates collected from Maori land (14 per cent of the rates struck). Unable to persuade Ngata to compromise the unpaid rates, Phillips on behalf of both boards asked that the law be amended so that the whole assessment could be sold for arrears, not just the bit that fell into the drainage district.²⁰

4.1.3 Land development

The one ray of hope for many of the local authorities was the recent land development initiative by the Native Department. Of the 10,000 acres selected in Kawhia County, one-tenth of this had been developed and milking begun by the time the commission sat. While the county chairman told the commission that the council 'had not tried to force the position' with regards to rates on the new development, a discussion ensued over the extra burden the development had placed on road maintenance. Waitomo County Council chairman Walter Lee maintained that the schemes should pay special rates at the very least. Lee considered that this large-scale land development, rather than consolidation, held the solution to rating problems. Referring to the 'difficulty' in getting Maori to participate, he suggested that 'some inducement or pressure is necessary to bring the scheme fully into operation.'²¹ On the other hand, he did not support the advance of financial capital to small farm initiatives: 'I am one of those who are strongly opposed to putting out capital for land to the Maori, because that is the way to put him into the position later on of

¹⁸ Lee, 1933 Rating Commission, p 490; Digital DB

¹⁹ 'Statement no.38', MA 1 407 20/1/14 part 3; DB:521

²⁰ Phillips, 1933 Rating Commission, p 506; Digital DB

²¹ Lee, 1933 Rating Commission, p 484; Digital DB

being landless and without money in place of an asset which he had some years ago.’²² With regard to small Maori partitions within the Mangapu Drainage District for example, he advocated leasing the land in large areas: ‘we do not want to find land passing from the hands of Maoris into the hands of small farmers who are in no better position to pay than the Maoris.’²³ His comments reflected local body scepticism about the government’s new initiative to settle unemployed men on small areas of unimproved or deteriorated Crown land. In the King Country the schemes had been established on acquired land that formerly yielded rates. With the bitter experience of abandoned Crown settlement which no longer did, Broadfoot explained that local authorities were ‘perturbed’ about the scheme. ‘We do not want them to be brought into the non-rate paying group.’ On the other hand, he advocated that the Maori land development schemes give a ‘quid pro quo’ to the small farms development for the development finance they were receiving. While professing support for Ngata’s vision, Broadfoot argued that there was just too much Maori land:

Well sir, I hold that the present developmental work as being done by the Native Minister is a correct solution; but in this territory, where we have such an enormous expanse of Native land, it is going to be too long, and there is far too much land, in my opinion, for them to handle adequately.²⁴

The MP suggested that there should be ‘better co-operation’ between the Lands and the Native Department, so that ‘Native land, which is excess land, can be made available for European settlement.’²⁵ Lee, too, had suggested to the commission that in light of the evident Maori proclivity for dairy farming, all of their lands suitable for sheep-farming should be made available for Pakeha settlement.²⁶ When he was asked about the demand for such land on a 21-year lease the voices in the hall chorused: ‘No, not on a twentyone year basis’ and Broadfoot was quick to explain ‘We want security of tenure.’²⁷

The call for development came from Maori quarters too, although not on the large-scale that the councillors supported. Mokena Patupatu, who had been part of petition delegation to Coates in 1927, seemed confident of Ngata’s support in terms of rates enforcement. ‘I have very little to say’, he quipped, ‘seeing that both of those counties recognise that they have a wall, similar to that wall of China, to negotiate before they can obtain the consent of the Native Minister to the grabbing of Maori lands for

²² Lee, 1933 Rating Commission, p 490; Digital DB

²³ *ibid*

²⁴ Broadfoot, 1933 Rating Commission, p 509; Digital DB

²⁵ *ibid*

²⁶ Lee, 1933 Rating Commission, p 491; Digital DB

²⁷ Broadfoot, 1933 Rating Commission, p 492; Digital DB

rates owing by the Natives.’²⁸ What he did add was that if Maori farmers on small holdings received government finance to develop their land, they would probably pay their rates: ‘I daresay the counties will have very little trouble with the Native.’²⁹ Anthony Ormsby, the district health inspector, told the commission: ‘When travelling right round the district, plenty of Natives approach me to ask the Native Minister to develop their lands, but unfortunately the Minister says that there is no money available.’³⁰ Ormsby suggested that surplus lands be used to finance farming operations (a suggestion Broadfoot fell on: ‘That is what I meant when I referred to the quid pro quo.’³¹) But Ormsby’s solution had Maori interests at heart, not those of Pakeha settlement:

A lot of these people have land, and, as I say, they are starving. I do not think any injustice would be done if they were given as much as they could reasonably work, and the rest either leased or disposed of. The Natives have no objection to paying rates if they had the means of developing their lands.³²

For the overwhelming impression from the evidence presented to the commission, is that lack of capital lay at the heart of Maori default. Dairy farmers on the new scheme in Kawhia County were left with 75 per cent of the butterfat proceeds once the Native Department had deducted its cut. Morris, chairman of Kawhia County Council, disabused the commission of the idea that they squandered the balance on motorcars: ‘they are all down to it, and they know they have to carry on with that money.’³³

One of the preoccupations of the commission was the extent of Maori dairy farming, requesting local details of the number of suppliers and amount of butterfat to the local factories. This came on the heels of a Farmers’ Union suggestion the year before that deductions could be made directly from dairy earnings for the payment of rates.³⁴ The situation in the King Country inspired little hope of such a recourse. In a revealing account of impoverished credit dependency, Waitomo County Councillor RW Neal of Piopio related the extent of Maori dairying in that district. Notwithstanding the few dairy farmers ‘who are quite good and have good pasture’, Neal explained that most of the 29 Maori suppliers to the Piopio Dairy Factory were ‘farming in a very indifferent manner’, running an average of 20 cows on holdings of 200-300 acres in a mixture of fern, ragwort and grass. Again working on averages, he told the commission that

²⁸ Patu, 1933 Rating Commission, p 512; Digital DB

²⁹ Ibid

³⁰ Ormsby, 1933 Rating Commission, p 514; Digital DB

³¹ Broadfoot, 1933 Rating Commission, p 518; Digital DB

³² Ormsby, 1933 Rating Commission, p 517; Digital DB

³³ Morris, 1933 Rating Commission, p 462; Digital DB

³⁴ Sub-provincial secretary NZ Farmers’ Union to Native Minister, 14 October 1932, MA 1 402 20/1/1 part 2; DB:239

each of these farmers supplied ‘a shade less than £100 worth of butterfat’ each year. Significantly, they did not receive this income:

In the Piopio district we have financed the Natives in a small way with manure and stock, and, of course, the Company, to protect itself, has first call on the butter-fat. Furthermore, we supply our Native suppliers with food and so on - living expenses. I should say that at least 90 to 95 per cent. of the proceeds of their milk cheques are retained by the Company in payment for food and so on. Therefore, I cannot see that there would be much left for rates. Then again, a Maori comes along in the winter time – or in the summer time, too – and he wants food. If we do not supply him with food we will get no butterfat. They will not milk unless they get something for it.³⁵

The potential for exploitation such a situation presented seems to have gone over the heads of the commission. Rather, they pressed on with questions about contributions to maintaining the roads which undoubtedly made dairying possible. Oh yes, Neal agreed, ‘The Maoris could not carry on without the roads. They would have no income without the roads.’ He too, seemed oblivious to the incongruity of his statement in the light of his testimony not five minutes before that Maori, in fact, derived no cash income from milking.

Details supplied to the commission reveal 78 Maori suppliers to the New Zealand Co-operative Dairy Company in Otorohanga at this time: 31 from Otorohanga County; 43 from Waitomo County (including 8 from the Waimiha development scheme); and 4 from Kawhia County. These returns do not show details of how much cream was supplied. The factory manager noted that six of these 78 were large suppliers, ‘the others average about 15 cows.’³⁶ A further 38 suppliers took their cream to the co-op dump at Te Kuiti. Within Waipa County there were 20 Maori dairy farmers supplying milk to the Te Awamutu Co-op, milking herds ranging from 5 to 38 cows, with the average of 13 cows per supplier.³⁷

The 1933 Commission of Inquiry may not have brought anything new to the debate over Maori rating issues, but the evidence presented to it clearly demonstrates that these issues comprised but a small part of the problem facing local government in Te Rohe Potae. It seems clear for example that the ‘Native Rating Problem’ could just have easily been described as the ‘Crown Rating Problem’, as it was the abandonment of Crown settlement land, and the large extent of unoccupied Crown land that looms as large in the commission minutes. It is also clear that much of the local body predicament had been caused by the extent of public and private debt incurred in the years of speculative land values, and to the

³⁵ Neal, 1933 Rating Commission, p 488; Digital DB

³⁶ Factory manager, NZ Coop, to F Phillips, 16 June 1933; MA 1 407 20/1/14 part 3; DB:516-518

³⁷ ‘Native suppliers as at 31st May 1933’, R/1/1 Waipa DC; DB:2147

subsequent global economic recession. Broadfoot's call for the takeover of 'surplus' Maori land sits oddly with other evidence of abandoned farms and empty town lots. This local body cupidity to transfer the burden of past greed onto Maori land did not go unnoticed within Te Rohe Potae. Writing a week after the 1933 Commission had sat in Te Awamutu and Te Kuiti, editor of the *Kawhia Settler*, EH Schnackenberg reflected: 'Twenty years ago we went to war to preserve the sanctity of a treaty yet today we have blatant demagogues who openly advocate seizing native lands to liquidate arrears of rates.'³⁸

The commission reported in September. The brief report began by acknowledging that non-payment of rates from both Maori land and Crown land occupied by Europeans meant that several local authorities, particularly in the Auckland district, were finding it difficult to continue. It pointed out that large areas in Maori ownership in fact had no rateable value, and that despite the existing provision to have these areas removed from the rating roll, 'so far very little appears to have been done.'³⁹ The Native Department was congratulated on its development schemes, but the commission considered the schemes should be contributing rates, and recommended that at least 50 per cent of the rates liability should be a charge second only to the living expenses of the occupants. It also found little reason against occupied Maori land that was reasonably developed being liable for rates. On the other hand, it did not support, or even refer to, the proposals which had been put to it by the local bodies of the King Country. The charging order system was described as 'hopelessly broken down', and of little benefit to local bodies needing 'quick and liquid finance'. Of more interest however, particularly in light of the King Country local body lobby, was the claim that the system, when carried to its full extent, 'must be the entire dispossession of Natives of their lands.' The recommendation that the government look to instituting a statutory charge on the produce from Maori – those butterfat returns again – together with the complete omission of issues regarding unoccupied lands tends to suggest that the commission agreed with the principle that rates could only be paid from production, or, conversely, that all unimproved Maori land should be exempt. The last piece of advice was that closer cooperation between the Valuation Department, the Native Department and the Native Land Court would ensure that the correct occupiers of Maori land in fact received rates demands from the local body, an obvious prerequisite one might think, leading to payment.

4.2 Local Body Pressure, 1934-1940

The report was a disappointment, to say the least, to local body politicians in the King Country. Legislation prepared on the strength of the report to ensure a local body deduction from farm produce was said to have been opposed 'very strenuously' by stock and station agents concerned about their security,

³⁸ *Kawhia Settler*, 23 June 1933, cited in La Rooij, p 50

³⁹ AJHR 1933, G-11, p 2, cited in Towers, p 225

and it did not go through. In early 1934 the county councils were equally unsuccessful in persuading the Minister of Lands to alleviate the financial burden of non-rateable Crown land when he visited the district.⁴⁰ While acknowledging that ‘many blunders’ had been made by the government in the settlement of the King Country, the Minister fell short of accepting liability for the £22,000 of estimated rates arrears from the failed Crown settlements. He also argued that the government’s rates subsidy made up for the Crown’s non-liability over abandoned land, a spurious claim in the circumstances, considering that all local bodies received such subsidies and that the amount received was calculated in turn on the rates receipts. As well, the government continued to refuse to pay rates on land development schemes – whether under Maori Affairs or Lands Department control – until the schemes were returning sufficient profit to do so, notwithstanding the increased wear and tear on the roads that such development created.

The Counties Association chose Waitangi Day in 1934 to protest the government’s decision not to allow the full prosecution for rates arrears on Maori land. Fed up with charging orders that could not be subsequently enforced and disgruntled at the continuing lack of any rates contribution from the land development schemes, local authorities most affected by the issue argued that either they be given the means to enforce the collection of rates from Maori land, or that the local burden of non-payment be shifted to the taxpayer as a national responsibility. With the exception of Kawhia County Council, the local authorities of the King Country were at the forefront of the concerted lobby for change. Within the Counties’ Association they were active participants in the organisation’s ‘Native Affairs Committee’ keeping the issue alive at annual conferences, and the stalwart trio of Stanton (from Taumarunui County Council), Lee (from Waitomo) and Broadfoot (from Te Kuiti Borough Council, also Waitomo MP) were invariably part of association delegations treading a well-worn path to Wellington to pressure Ministers for change. The following litany of local body complaint in this decade focuses on lobbying in which local authorities within Te Rohe Potae were principally involved.

4.2.1 May 1934, ‘Native Rating Conference’ in Rotorua.

The outcome of this local body conference was another delegation to Wellington to present Prime Minister Forbes with draft amendments to the collection of rates from Maori land. King Country local body politicians Stanton and Lee were present and on this occasion Broadfoot opened the proceedings. Frank Langstone, MP for Waimarino and future Minister of Maori Affairs, was also there. The association’s proposal reflected an emerging focus on rating returns from developed land. As Waiapu County Chairman Denys Williams put it, ‘rates can only be paid from production, and where the land is

⁴⁰ *King Country Chronicle*, 1 February 1934; DB:2815-16

producing we want a share.’⁴¹ The Bill proposed that each year, the local body would prepare a list of Maori properties which it considered to be valueless for rating purposes, which would then be exempt. This ‘non-rateable list’ would be subject to an annual review and lands which had subsequently been developed could be removed by the local authority and returned to the valuation roll, with the provision for a written objection by the landowner to the assessment court. The quid pro quo was that the charging order provisions would be repealed altogether, with Maori land not on the ‘non-rateable list’ subject to the same collection methods as those of general land. Land incorporated in the development schemes would be liable for at least 50 per cent of the rates within two years of commencement. Failing the government sanctioning the Bill, the delegation called once again for State reimbursement of the unpaid rates.

The local bodies claimed the proposals reflected the principle that they ‘didn’t want to harass the Natives, nor see them dispossessed of their lands.’⁴² Yet within the delegation itself, there was a serious divergence regarding the scope of the Bill. Assurances that local bodies would be happy to recoup rates arrears through lease, rather than sale, brought an early interjection from Broadfoot that 21-year lease terms without protection for improvements were ‘not of any use.’ Similarly, the Rotorua MP’s assertion that ‘land outside production for the time being would be removed from the rating roll’ was poles apart from Broadfoot’s insistence that idle land which had access should either be developed as a Native Department scheme or ‘bear its rates’ – through the forced lease on renewable terms, with again compensation for improvements. When Prime Minister Forbes clarified that this virtually meant Maori owners of unimproved land – with no means to develop it – would lose their land ‘for a good many years’ and have little chance of regaining it, Broadfoot replied:

they realised all that, but there were also obligations to European settlers. They had visitations of noxious weeds, and scores of thousands of acres of land were ruined, owing to this land lying idle. ...

He claimed that the Native People today had more land than they could handle, and he thought the excess should be made available for European settlers, provided that the owners were adequately compensated. They had to stand by and watch acres of land being destroyed from lack of attention.⁴³

Lee, chairman of Waitomo County Council, claimed that the Native Rating Commission the previous year had not gone far enough: ‘Unless something was being done to make these lands responsible a very great

⁴¹ ‘Native Rates: Proposed Bill...’, 19 July 1934, MA 1 402 20/1/1 part 2; Towers DB:582

⁴² Ibid, Nugent; Towers DB:584

⁴³ Ibid, Broadfoot; Towers DB:586-7

injustice was being inflicted on the pioneers of the district.’⁴⁴ Stanton, chairman of Taumarunui County Council, added that rating was very high in the King Country: ‘It was in the interests of the European settlers that they were now on the warpath again; they were not antagonistic to the Natives. There was now, for the first time, a definite proposition before the Government that the native land should be classified into which should pay rates and which should not.’⁴⁵

The delegation received the Prime Minister’s assurance that the government would look at their suggested legislation, and see what could be done with a problem ‘bristling with difficulty on all sides.’ He agreed that it was not fair to the local bodies to carry the whole burden of Maori rating, but nor did he support reducing Maori to a ‘mendicant class’ through dispossessing them of their land. ‘That would not be carrying out our trust and duty to the Native People. We had to do our best for them.’⁴⁶

4.2.2 May 1935, Acting Native Minister, R Masters’ visit to Te Kuiti

Introduced once again by WJ Broadfoot, members of the Te Kuiti Borough Council, the Waitomo County Council and the Mangapu Drainage Board took the opportunity to again press the Minister about the issue of ‘Native Rates’, with Broadfoot emphasising the lack of payment by the land development schemes.⁴⁷ Masters had in fact spent the morning listening to submissions from local Maori ‘extending over several hours’ urging him that Maori land should be exempt from rates. It was on this occasion that Tohe Searancke raised the issue of his land being taken by the Te Kuiti Borough Council (see 3.3.9). Unfortunately no minutes appear to have been taken of this earlier engagement. Masters promised to relay the councillors’ concerns to Prime Minister Forbes.

4.2.3 July 1935, Waitomo County Council call for an amendment to the Rating Act 1925 in order to enable the enforcement of collection against lessees of Maori land.

According to the council, under existing legislation it was possible to secure judgement against such lessees, but not to enforce it. In passing on the request to the Minister of Internal Affairs, Broadfoot instanced the lease of 3000 acres of Maori land rated annually at £80, for which the lessee had ‘paid nothing for years’.⁴⁸ In response the Native Department asserted that Maori land was no different from privately owned land in this respect, and although the local bodies had no remedy against the land, they could still pursue a personal remedy against such lessees, through a distress warrant or judgement

⁴⁴ Ibid, Lee; Towers DB:590

⁴⁵ Ibid, Stanton; Towers DB:592

⁴⁶ Ibid, Forbes; Towers DB:592

⁴⁷ ‘Notes of a Deputation...,’ 20 May 1935, in MA 1 402 20/1/1 part 2; DB:246-247

⁴⁸ WJ Broadfoot to Minister Internal Affairs, 29 July 1935, in above; DB:252

summons. The conclusion that the local body had legal remedies ‘of which it does not desire to avail itself but wishes a shorter and perhaps stronger method of recovery’ was relayed back to the Minister of Internal Affairs in August.⁴⁹

4.2.4 *October 1935, local body delegation to Prime Minister Forbes*

The following month the Waitomo County Council wrote to the Prime Minister demanding that legislation proposed the year before be introduced immediately, or, failing that, a grant be made to those local bodies ‘adversely affected through the non-collection of Native rates.’⁵⁰ The council claimed to be losing £4500 annually from such lands. The resolution was also circulated to other county councils for endorsement, initiating another influx of correspondence to the Prime Minister and, ultimately, to the Native Department.⁵¹ In October 1935 the same resolution was part of another Counties Association remit.⁵² In presenting the resolution to the government, association president Jull argued: ‘it was grossly unfair, that the people of the Dominion who had some moral liability in respect of the Native people, should throw that obligation upon the European settlers in those particular areas where the native population was thickest.’⁵³ At the same time another deputation headed by Broadfoot was ‘back again’ to Prime Minister Forbes with the same message.⁵⁴ Once again, the focus was on the lack of rates from development schemes, and the allegation that the Maori Land Board, in cases where it had been appointed by the court as receiver of rates, was doing very little to collect them. On this occasion the Prime Minister stated that government reimbursement for unpaid rates might encourage Maori default. When he also referred to the practice of more generous Public Works grants ‘as a rough and ready compensation to those counties which had the native rating problem’, the MPs countered that new roads only intensified the pressure on the counties’ maintenance funds. Once again the Prime Minister told the deputation he would think about it.

4.2.5 *March 1936, local body deputation to Prime Minister Savage*

The election of the First Labour Government at the end of 1935 inspired a renewed effort from the local government lobby. Prime Minister Savage took over the portfolio of Native Affairs. In February the Counties’ Association repeated their remit of the past two years for consideration and the following

⁴⁹ Acting Native Minister to Minister Internal Affairs, 20 August 1935, in above; DB:254

⁵⁰ Waitomo County Council clerk to Prime Minister, 25 September 1935, in above; DB:255

⁵¹ Endorsements from Te Kuiti Borough Council, Taumarunui Borough Council, Kawhia County Council and Waipa County Council are on file, in above.

⁵² Secretary NZ Counties Assn to Native Minister, 10 October 1935, in above; Towers DB:565

⁵³ ‘Remits from Counties Conference, 1935’, in above; DB:257

⁵⁴ ‘Native Rating: Deputation to Prime Minister...’, 10 October 1935, in above; Towers DB:554

month it was his turn to host the local body deputation on the issue of Maori rating. King Country local bodies, represented once again by Broadfoot, Lee and Stanton, predominated. Once again it was claimed that, despite their best efforts, the existing collection machinery gave no practical results: the few receivership orders that had been made were not acted on and the Native Minister continued to veto the vesting orders. Referring to his own electorate, Broadfoot again made the claim that the few local bodies unfortunate enough to have a large area of Maori lands, coupled with a large Maori population, had to do all the paying. Rates in these districts were double what they would be if the whole area was contributing. Again, while development was laudable, ‘to get all the land developed properly would, he thought, take the next century at the present pace, and land was going to ruin and becoming infested with weeds and rabbits, etc.’⁵⁵

Lee for his part asserted that the matter was a national responsibility. He acknowledged that ‘at the moment the Maori People were not in a position, until their lands were fully developed, to meet their rates in full’ but local bodies were ‘prepared to extend very considerable sympathy towards them’ and would be satisfied with part payment.⁵⁶ Within Waitomo County Maori rates accounted for one-sixth of the total struck and, Lee went on, Pakeha in the district were called upon to fence Maori land, drain it, clear it and provide not only the road rates but also hospital and charitable aid rates.

The new Prime Minister was suitably statesmanlike. New Zealand, he said, though not large, was a wonderful territory. ‘We were only entitled to hold it when we used it – as otherwise there was no excuse for holding it at all.’⁵⁷ He admitted that it was a government responsibility to resolve what he termed ‘a major problem of land settlement’, but signalled that this lay in the direction of development rather than State reimbursement of uncollected rates: ‘the onus was on the government of seeing that the Native estate was developed to the fullest extent in the interests of the Natives, under conditions which would allow them (and compel them if necessary) to pay rates or taxes. That was the meaning of equality.’⁵⁸ He also considered this to be part of the government’s fiduciary duty, along with that of not allowing this estate to be dissipated. Once again the deputation was assured that the matter would be referred to the Native Department and then considered by Cabinet. Broadfoot graciously offered his help: ‘he knew he could be of great help as he had studied the question for forty years, and made a specialty of it.’⁵⁹

⁵⁵ ‘Deputation to the Prime Minister...’, 19 March 1936, in above; Towers DB:530

⁵⁶ Ibid, Lee; Towers DB:530-31

⁵⁷ Ibid, Savage; Towers DB:537

⁵⁸ ibid

⁵⁹ Ibid, Broadfoot; Towers DB:540

This March deputation was followed by others on the same issue from Piako County Council in April, Hokianga County Council in May and Waiapu, again, in July 1936. In June a related remit originating from Te Kuiti Borough was also submitted by the Municipal Association.⁶⁰ By this time, Raglan County Council had joined the fray. A decade before the council had advised the Rural Counties Association that as a result of a deliberate policy ‘to encourage the passing of Native lands into the hands of Europeans, either by way of sale or lease’, the non-collection of rates from the remaining 67,260 acres was not a serious problem.⁶¹ Ten years on and a further £50,000 in debt however, it had revised its opinion. The county claimed that almost all of the Maori land was potentially good farm land, and that the full benefit of a comprehensive road system and county-wide electricity reticulation ‘was not being taken advantage of while there remains a big area of Native land in the County undeveloped and unoccupied.’⁶² It was also claimed that these lands posed a threat in terms of noxious weeds. Details of Maori holdings in the county subsequently supplied on the Prime Minister’s request indicate that much of this land was unimproved.⁶³

4.2.6 June 1939, Waitomo County ratepayers deputation to acting Minister of Lands, Te Kuiti

Organised by Broadfoot MP and Walter Lee in June 1939, over 100 ratepayers turned up to voice their indignation to the acting Minister of Lands, Lee Martin. The council raised the inequity of county contributions to state and subsidiary highways. Ratepayers were primarily angry that the government’s development schemes – both Maori and small farms development – contributed nothing in the way of rates. Under the prevailing policy that rates would only be paid when a farming profit was made, after nine years of operation 62 per cent of the small farms schemes still paid nothing towards the increased wear and tear on the roads.⁶⁴ Rangitoto district was singled out to demonstrate the inequities of the arrangement, where the 15 ratepayers were outnumbered by 19 resident non-ratepayers, the traffic of development supervisors, and the schoolbus, full of the off-spring of the non-ratepayers. ‘The Government had entered into the farming field with other farmers’, it was argued, ‘and should shoulder its full share of the cost.’ The non-payment from Maori farmers, and the old complaints about unoccupied Maori land were also raised in relation to the ‘burden’ ratepayers were carrying in the district. In response, Lee Martin agreed that the problem was more acute in the King Country than the East Coast, due to the lack of development. ‘The Natives here did not seem to appreciate the efforts being made to help them and it was difficult to get their co-operation. Leadership probably had something to do with it.

⁶⁰ Remit 50, in MA 1 402 20/1/1 part 2; DB:311

⁶¹ Raglan County Council clerk to secretary, Rural Counties Assn, 19 February 1926, in above; DB:272

⁶² Raglan County Council clerk to Native Minister, 7 February 1936, in above; DB:270-271

⁶³ ‘Raglan County Council, Native Rates’, in above; DB:277-296

⁶⁴ ‘Notes of Deputation to the Hon.W.Lee Martin...’, 29 June 1939, MA 1 417 20/2 part 1; DB:641

Large areas were still idle in the hands of Natives. The Government had done everything possible to interest them in schemes for improvement.’⁶⁵ He promised to raise the matter with the Native Minister when he returned in September.

4.2.7 *July 1939, Counties Association delegation to Minister of Internal Affairs*

Walter Lee spearheaded the discussion on this occasion, urging that steps be taken to ‘arrive finally and for all time at a satisfactory basis, both to the rural bodies concerned and to the Government, for the solving of the problem of native rating.’⁶⁶ His request reflected the culmination of protracted debate about the classification of unproductive lands and the Counties’ Association’s proposal to shift the burden of such lands to the Government. ‘Was it right that those particular areas having large Maori populations should have to continue to carry the heavy burden involved under the present system of native rating? The Association contended that the problem was a national one and should be so treated.’⁶⁷

Internal Affairs Minister Parry agreed that responsibility of unpaid Maori rates ‘should be the responsibility of the nation as a whole, and not of the few Europeans who happened to reside in the same areas as did the Maoris.’⁶⁸ He then distanced himself from the issue, stating that it was probably a matter of government policy, and certainly one for other Ministers to consider.

4.2.8 *December 1939, Waitomo County Council and Te Kuiti Borough Council deputation to acting Minister of Native Affairs, Te Kuiti*

On this occasion, Broadfoot and Lee again pressed Acting Minister of Native Affairs Langstone about the non-payment from Maori land, particularly from the Mahoenui development scheme; the futility of receivership provisions for unoccupied lands; and the impact of ongoing non-payment on local infrastructure.⁶⁹ The pressure resulted in the first rates payment from Mahoenui.

The report now turns to consider the polemic surrounding the collection of Maori rates as it unfolded in the 1930s, setting out first the problems encountered by local bodies with the existing provisions, exploring the solution of classification, and then that of land development, to enable some conclusions to be drawn about the gulf between ostensible government policy and the effect of this on the ground. The voice of tangata whenua of Te Rohe Potae in this period is notably silent. Individuals did write into the department, one to query a rates demand in Te Kuiti on a section with no access; another at Mokau to

⁶⁵ Ibid; DB:644

⁶⁶ ‘Notes of a deputation...’, 28 July 1939, MA 1 404 20/1/1 part 4; Towers DB:773

⁶⁷ Ibid

⁶⁸ Ibid; Towers DB:777

⁶⁹ Langstone to Under-Secretary Native Department, 14 December 1949, in above; DB:368

query whether the metal being quarried from her rated land could be put towards the rates bill. In May 1938 the Maniapoto Maori Council's telegraphed call for ministerial intervention to prevent receivership proceedings at Te Kuiti was turned down (the telegram not being on file).⁷⁰ For the most part however, most of the intense debate over the rating of their lands went on over their heads.

4.3 Of charging orders, receiverships and vestings

By way of reminder, recovery provisions under the Rating Act 1925 treated all Maori freehold land the same, regardless of whether it was owned in severalty or in common. There was no express provision as to the manner in which a demand for the rates was to be made. The Act did stipulate that once the rate was levied, but no later than two years after, a claim for the unpaid rates against the land could be lodged with the registrar of the Native Land Court, and treated as an application for a charging order. The court could hear objections and if it was satisfied the rates were payable it could grant a charge over the land in favour of the local body for the amount of rates plus costs. In special circumstances of hardship the court could remit whole or part of the rates. The charge remained on the land until it was paid, the owners prevented from dealing with the land without the consent of the court or the local body.

Existing legislation provided two means of enforcing collection once a charging order had been obtained. The first of these was a Court-appointed receiver, who could lease the land in order to pay back the rates debt. Leases could be no longer than 21 years and there was no provision for compensation for improvements. Receiverships could immediately follow the charging order, and as no permanent alienation was involved, they did not require the consent of the Native Minister. Alternatively, if a charging order remained unpaid after a year, the local body could apply for a vesting order, to have the land vested in the Native Trustee for sale to recoup the unpaid rates. This did require the consent of the Native Minister. A third provision of relevance to the debate, particularly in the King Country, was Section 540 of the Native Land Act 1931 which provided that where Maori land was unoccupied and unleased and not kept properly cleaned of noxious weeds, the Court could appoint the Native Trustee as agent for the owners to alienate the land. Once again, alienation by sale required the prior consent of the Native Minister.

One of the most obvious administrative reasons behind non-payment was the lack of notice. If individual Maori never received a rates demand, how were they to know they were liable? Allied to this was the ongoing issue of endemic inaccuracies in the records of the rating authorities when it came to Maori land, which has been discussed in the previous chapter. The situation had not been improved by the Rating Act

⁷⁰ Langstone to T Waeroa, 23 May 1938, MA 1 403 20/1/1 part 3, ArchivesNZ Wgtn; DB:342

1925. In Taranaki in 1934 numerous complaints were made by Maori landowners about charging orders: that the demands were in the wrong names and never reached the right owners; or that the description of the properties was incorrect.⁷¹ These allegations were substantiated by the Taranaki County Council itself. In addition, it was claimed that the fact that the Court panui listed only the block name, meant that owners failed to identify their interest, a claim the departmental officer discounted given ‘the interest Natives take in their Court matters’. As a result of the complaints, the Valuation Department was asked to cooperate with the Native Department to remedy the situation.⁷² As mentioned before, Maori owners and occupiers were listed as ‘Natives’ in the rating rolls of Kawhia County, and its second request in 1935 for information from the registrar to improve matters also drew attention to the fact that it had been ‘some considerable time’ since it had been advised of changes wrought as a result of partition.⁷³ In the event, the registrar was too busy to help, but told the council that the court records in Auckland were available for searching.⁷⁴ In November 1935 the council was told that the Valuation Department would address the matter and advise the council of partitions. The cost of doing so would be charged to the council as part of the ordinary annual account.⁷⁵ In the event, Kawhia County Council did not take the charging order route, and it was not until the 1937/38 rating year that the first rates demands were sent out to Maori. A 1936 letter from the Kawhia Town Board asking whether the 1928 compromise was still in force, and whether local bodies could rate township lands under the control of the Maori Land Board adds to the impression of an isolated county far removed from the shadow of Wellington.⁷⁶ In fact, despite the issuing of demands, it was not until December 1943 that the county council took steps to have the gazetted rates exemption of Maori land – originally invoked as part of the consolidation proceedings 15 years before – revoked. The council resolution to this effect was followed by a request to the Under-Secretary for Native Affairs to cancel the exemption.⁷⁷

Within Waitomo County, once the compromise exemption had expired the council had returned all Maori land in its district to the rating roll and levied rates. Availing itself of the three-year timeframe, 118 applications for charging orders were lodged in May 1935, at a cost of £300.⁷⁸ Judge MacCormick reported that when applications came before the court, Maniapoto ignored them altogether and ‘do not

⁷¹ File note ‘Native Rates’, 20 December 1934, in MA 401 20/1/1 part 2; DB:244

⁷² Under-Secretary Native Department to Valuer General, 8 January 1935, in above; DB:245

⁷³ Kawhia County Council clerk to registrar NLC, 5 September 1935, 233033 Maori land, Otorohanga DC; DB:1684

⁷⁴ Auckland registrar NLC to Kawhia County Council clerk, 10 September 1935, in above; DB:1685

⁷⁵ Officer Valuation Department to Kawhia County Council clerk, 11 November 1935, in above; DB:1689

⁷⁶ Kawhia Town Board clerk to Minister Native Lands, 11 May 1936, MA 1 402 20/1/1 part 2; DB:298

⁷⁷ Kawhia County Council minute book, 14 December 1943, p 220; Digital DB:Local Body Records/Otorohanga District Council; Kawhia County Council clerk to Under Secretary Native Department, 20 December 1943, 233033 Maori land, Otorohanga DC; DB:1710

⁷⁸ ‘Notes of a deputation...’, 20 May 1935, MA 1 402 20/1/1 part 2; DB:247

trouble to attend.⁷⁹ The boycott, he implied, was on account of the historic agreement, ‘which is not in writing’. The result was that the Court was unable to refuse the charging order, or grant an exemption on circumstantial grounds of hardship, because ‘[i]f there is no evidence there can be no exemption.’ Vesting orders however were not made ‘without the fullest inquiry practicable in each case and satisfying myself as far as possible that the native ought to pay.’ He claimed not to have made more than ‘about a dozen’ in ten years, and in only one case had the Minister consented to it. Little interest had been shown by the local authorities in this district in the receivership provisions. As MacCormick explained, ‘[t]he drawback to receivers is that they have power to lease for 21 years only and practical experience shows that while people will take up leases of well improved land for that term they will not do so in respect of unimproved land unless there is a covenant for compensation for improvements.’⁸⁰

In the Aotea district – which included Clifton County, for which a younger Ivor Prichard was the county solicitor – charging orders were routinely made against both unoccupied and occupied lands, and in the case of the former, the orders were enforced by the appointment of a receiver to lease. The judge felt no compunction forcing the lease arrangements on the owners, but he did consider the liability of such unproductive lands in the first place bore ‘somewhat harshly on the Native owners.’⁸¹ The fact that receiverships for unproductive lands were based on charging orders for unpaid rates was just one of the incongruities of the legislation. In the case of occupied land, the impoverished circumstances of the owners made the Court reluctant to enforce the charging orders.

Judge Carr, working on the East Coast, considered that the efficacy of existing legislation depended on the intention of the local body lodging the charging order:

If the intention of the local body is merely to secure the debt from becoming stale or barred then the present system is cheap and effective – if on the other hand the intention is to cash in on the charging orders then the system becomes harsh in its operation as it means depossessing [sic] the Maori of his heritage and in many cases would have the effect of putting him on Charitable Aid.⁸²

For despite the emerging local body rhetoric about enforcing rates collection from productive Maori lands, the same rating authorities continued to levy rates indiscriminately and to obtain charging orders against unproductive lands, with the result that the Court did use its discretion to mitigate against the full impact of the legislation. Judge Carr considered that remedial legislation was urgently required to enable

⁷⁹ Judge MacCormick to Under-Secretary Native Department, 19 October 1935, in above; DB:264-265

⁸⁰ Judge MacCormick to Under-Secretary Native Department, 20 July 1936, MA 1 403 20/1/1 part 3; DB:306

⁸¹ Judge Browne to Under-Secretary Native Department, 18 October 1935, MA 1 402 20/1/1 part 2; DB:266-267

⁸² Judge Carr to Under-Secretary Native Department, 1 September 1936, MA 1 403 20/1/1 part 3; DB:308

a 'more humanistic' approach to prevent occupiers from becoming homeless, or receivership leases granted on terms that were unwarranted by the insignificant amount of debt.⁸³ Regarding the Court's discretion to enforce receivership, in May 1938 the Under Secretary for Native Affairs pointed out to Treasury that:

There must always be a relationship between the utilisation of the land and the local body rates on that land. If a Native is using his lands as a competent European farmer would do, then it may be assumed he is using the amenities provided by the ratepayers in the form of roads, bridges etc. If, on the other hand, he is not so using the lands he is not benefiting by the expenditure of the revenues of the local body. Then again there are extensive areas of Native lands which are quite inaccessible or without reasonable access or areas which are not worth the expense of providing road access and there are many areas of Native land which even to-day are in their virgin state.⁸⁴

In August 1936 the Court's intermediary role was challenged by Cook County Council, frustrated by the continued inability to extract payment under existing law. Determined to test the legislation, Cook County Council applied for over 180 applications for receivership orders to enforce unpaid charges. Two of these were selected by Carr as test cases, and both were disallowed, and the rest stood down. The decision was appealed, first in the Native Appellate Court, and then successfully in the Supreme Court in September 1937. The county council had argued that the court had no discretion in the appointment of a receiver where rates were still owed and secured by rate charging orders, and the Supreme Court judge had agreed:

it is manifest that the object of the power to appoint a receiver is to effectuate the legal right of the County Council to receive payment of moneys due in respect of rates, and for the amount of which rates the Court has charged the lands affected. It is also clear from the context of the statutes, and from the general scope and objects of the provisions of the statutes, that the intention of the legislature was that when the Court has judicially decided that a charge should be granted it has no discretion to subsequently refuse to appoint a receiver unless it is prepared, under section 109, to appoint the Native Trustee for the purpose of sale of the land affected by the charge.⁸⁵

The case was important but it did not lead to any immediate change in practice. Langstone, acting Native Minister reassured Maori concerned over the judgement that he would 'find a way of preventing the wholesale sale of Native lands for the payment of rates...' on the stated grounds that 'The Maori race holds little enough land already and co-operation on the part of the Government and the Native owners is

⁸³ Judge Carr to Under-Secretary Native Department, 12 January 1937, in above; Towers DB:717

⁸⁴ Under Secretary Native Department to Secretary, Treasury, 24 May 1938, in above; Towers DB:643

⁸⁵ Hurimoana 1B2 Block 1937 NZLR 859, in MA 1 403 20/1/1 part 3; Towers DB:675

necessary to find a way of preserving the remnant of Native lands for the present and future descendents of the Native owners of such lands.’⁸⁶ In fact, any forced sale of Maori land still required the prior consent of the Native Minister. And if the court had lost its discretion over granting receivership orders, it began to exercise a great deal more in granting charging orders in the first place. Cook County Council’s success was temporarily frustrated by the court’s procrastination in supplying occupier details and by March 1938 the county council was urging other councils to similarly press for applications for enforcement, ‘then pressure would be brought to bear on the Government to bring forward satisfactory amending legislation.’⁸⁷ Waitomo County Council for one, took the advice to heart, resolving at its October monthly meeting to ‘take the necessary steps to have the charging orders made effective’.⁸⁸

The extent to which the council could carry out this threat was limited. As Broadfoot and Lee repeatedly pointed out to the government, receivership provisions were futile for the purposes of enforcing rates on unimproved land. Few lessees would be attracted by the 21-year term with no compensation for improvements. This was even more so within the borough of Te Kuiti. And there was not a great deal of productive land outside of the department schemes to target, although application was made for at least two Maori blocks at this time.⁸⁹ In 1940 the council toyed with the possibility of lodging receivership orders over development scheme lands, and were dismayed with the Under Secretary’s advice that in the event of a receiver being appointed the Crown’s charges would have priority, leaving nothing over for the payment of rates.⁹⁰ When Native Minister Langstone visited Te Kuiti in March the following year, the council took the opportunity to argue the point that the Department as mortgagee had full power to pay the rates regardless of the wishes of the mortgagor.⁹¹ Langstone rashly promised the council that where Maori were earning sufficient revenue from their farming and still did not pay rates, he would support the council’s application for receivership.⁹² He was subsequently forced to eat his words.

In districts like the East Coast where significant development had taken place, from the late 1930s effort was put into correcting the district valuation rolls and close collaboration between the Maori Affairs Department and the county councils – and face to face liaison with the Maori occupiers themselves – meant that the charging order and receivership system was subsequently used to good effect. After the

⁸⁶ Acting Native Minister to T Te Waharoa, 29 September 1937, in above; DB:334

⁸⁷ See for example Cook County Council clerk to Kawhia County Council clerk, 9 March 1938; 233033 Maori land, Otorohanga DC; DB:1690

⁸⁸ *King Country Chronicle*, 15 October 1937, in MA 1 403 20/1/1 part 3; DB:335

⁸⁹ Broadfoot & Mackersey to Waitomo County Council clerk, 18 May 1938, 66/8 Native lands, Waitomo DC; DB:2388

⁹⁰ *King Country Chronicle*, 12 August 1940, MA 1 404 20/1/1 part 4; DB:377

⁹¹ Langstone to under secretary, 7 April 1941; in above; DB:390

⁹² Langstone to Under-Secretary Native Department, 5 March 1941, in above; DB:386

Second World War rates returns from developed Maori land were consistently high and from this time the East Coast local bodies no longer featured in the annual delegations to government. Local bodies within Te Rohe Potae on the other hand were still confronted with vast areas of unoccupied, undeveloped and unproductive land, for which the existing legislation was hopelessly inappropriate and, it is suggested, incongruous.

Throughout the period under review, the government continued to tell local government that the existing provisions were ‘as far as one could reasonably go’ in enforcing the collection of rates from Maori land. It would not be responsible for the dispossession of Maori land for rates, at least until they had had an opportunity to bring the lands into production. It also continued to encourage local bodies to use the existing provisions even in the face of the overwhelming burden of proof that doing so brought no practical relief for the local bodies. If it was widely accepted to be unreasonable to collect rates from unproductive Maori land, or lands incapable of production, why were these lands still legally liable for rates? Local bodies in Te Rohe Potae continued to levy rates on such lands, the associated rates ‘loss’ of £4500 becoming the tired mantra of Waitomo County Council whenever a politician came within earshot. Moreover they continued to obtain charging orders over such lands, mounting up debt that remained on the title and further restricted utilisation. The onus to remedy this situation it is suggested, particularly in view of the rhetoric that government ministers indulged in, lay with Parliament, and not with local government.

4.4 Productive and Non-productive Land: Classification reborn

The emerging focus of local government attention on enforcing collection of rates on productive Maori land came hand in hand with renewed interest in the idea of classification, in terms of the land’s ability, or in some alternative proposals, that of the owners, to pay. As it has been shown above, classification schemes emanated from local government itself, as the proposed trade-off for full enforcement capabilities over productive lands; from the Native Land Court judiciary who saw firsthand the impact of imposing charging orders on unproductive lands; and from the government officials in the Native Department, who enjoyed a close relationship with the judiciary at this time.⁹³ Tangata whenua opposition to the rating of unproductive lands within Te Rohe Potae predated Pakeha settlement and had been reiterated strongly by Ngati Maniapoto as the basis of consolidation in 1928.

⁹³ At least two chief judges of the Native Land Court – Robert Jones and George Shepherd - also served as Under-Secretary for the Native Department. As well, the registrars in each court district (who worked closely with the district judges) reported to the Under-Secretary in Wellington. These district judges, in conjunction with the district registrars, comprised the District Maori Land Boards, and they often attended Native Department conferences during this period, such as the consolidation conference in 1949.

In 1935 Under-Secretary for the Native Department, Campbell, considered that existing legislation went as far as it was 'reasonably possible for the Government to go' and that provided it was reasonably interpreted, neither the local bodies nor Maori had any cause for complaint:

It seems reasonable that rates should be absolutely collectable where the land is producing sufficient to enable the occupier or the owner to pay the charge; but where the land is lying idle or producing insufficient revenue, I cannot see just how it is possible or reasonable to expect that rates should be paid. In these cases I think the rating authorities would be satisfied provided steps were taken to put the lands into use so that rates could be paid in the future.⁹⁴

In response to the Counties' Association's 1936 remit calling for State reimbursement for the counties most affected, Campbell claimed that this was an issue for Treasury, which in the first instance would require costing out on reliable evidence.⁹⁵ Regarding the local bodies' classification proposal, it was pointed out that provision already existed for local bodies to recommend the exemption of Maori land from rating, and for varying these decisions from time to time. There was also already provision to write off the rates from the lands so exempted. Both measures would relieve the local bodies of hospital levies. The demand that lands under Departmental development pay rates was countered with policy that the Department could not pay rates from loan capital available for development: rates would be paid when the lands were producing sufficient revenue to meet them, not before. The call for Maori Land Boards to pay for the eradication of noxious weeds on lands under its control was met with a similar argument, that it could only do so when funds from the affected land were available. It was also pointed out that the Native Department Vote for this purpose, expended through the Department of Agriculture, applied to vested lands also.

In the face of unremitting local body foment, in July 1936 the Under-Secretary formulated his own proposals which were circulated to the Native Land Court judges for comment. Campbell believed that previously widely divergent views had now coalesced into the acceptance that Maori should be protected against the sale of their lands for non-payment of rates; and that the ability to pay should be the test, with unimproved lands being non-rateable.⁹⁶ Based on the principles of classification he had identified the previous year, the Under-Secretary proposed that rating authorities be requested to remove all waste or unimproved lands from the rating roll, and gave the Court an assessment role to determine the ability of the land to pay rates when charging orders were sought. Application for the appointment of receivers

⁹⁴ Under-Secretary Native Department to all judges, 6 October 1935, MA 1 402 20/1/1 part 2; Towers DB:568

⁹⁵ Under-Secretary Native Department to Native Minister, 18 February 1936, in above; Towers DB:543

⁹⁶ Under-Secretary Native Department to Native Minister, 10 July 1936, in above; Towers DB:499-500

would automatically follow the charging order, the Maori Land Boards to act as receiver 'in the absence of any better arrangement', for a commission.⁹⁷ Such a course, he argued somewhat optimistically, meant that both the rating authorities and Maori landowners would know where they stood, and would arrange payment accordingly. On the same day he told Native Minister Savage that existing legislation was based on sound principles, and the fact that it had not been 'properly explored' could be attributed to the involved procedure and the fact that with the exception of a few North Island counties, the amount of Maori land was relatively small.

Campbell's proposals got a lukewarm reception from the Native Land Court judiciary. It was pointed out that many of the suggestions were already in practice, and others would not improve matters. Chief Judge Jones claimed that it would be impractical for the Maori Land Boards to collect rates, and would lead to further local body claims for Crown reimbursement.⁹⁸ With relevance to Te Rohe Potae, Judge MacCormick responded that the proposal depended on the full cooperation of the local bodies – and doubted whether any would be forthcoming from Maori. He claimed that local bodies would not support the Court being made assessor, and that land valuation would be severely contested, leading to expense and delay. He also alluded to dissatisfaction with receivership leases of 21 years without provision for compensation, pointing out that there was very little demand for leasing unimproved land on this basis.⁹⁹

All of the judges however supported classification, with the liability of the land dependent on its ability to sustain rates. Judge Harvey and Judge Carr suggested that the economic circumstances of the owners should also be a determining factor, and Carr listed other considerations like lack of access, or land required for scenic purposes as considerations which might be taken into account. He proposed a classification board comprised of a local body representative, a local Maori representative and the district judge. It is important to note that while supporting the exemption or partial exemption of land incapable of producing revenue to pay rates, both judges nonetheless also supported measures to coerce owners into farming. Judge Carr opined: 'Where it is found that owners are capable but wont develop their land this committee might be directed to report that the land should be vested in a Maori Land Board for leasing.'¹⁰⁰ Judge Harvey had prepared a draft Bill of his own, also based on the classification of land; also giving the Court a role as assessor of liability, and also giving the Maori Land Board a role as collector.¹⁰¹ The last clause in this version provided that where Maori land was incapable of paying rates

⁹⁷ Under-Secretary Native Department to judges, NLC, 10 July 1936, in above; Towers DB:501

⁹⁸ Chief Judge Jones to Under-Secretary Native Department, 30 July 1936, MA 1 402 20/1/1 part 2; DB:303

⁹⁹ Judge MacCormick to Under-Secretary Native Department, 20 July 1936, MA 1 403 20/1/1 part 3; DB:306

¹⁰⁰ Judge Carr to Under-Secretary Native Department, 1 September 1936, in above; DB:309

¹⁰¹ J Harvey, 'Suggested amendments to the Rating Act 1925', in above; DB:319-320

by reason of its undeveloped state, or from owners' neglect, or where it had been allowed to deteriorate, the Court could vest the land in the Maori Land Board under Part 15 of the Native Land Act 1931 for lease.

By June 1937 there are indications that the government was seriously considering classification as an option. The Native Department was asked to furnish information regarding the extent of Maori land in each county, and how much of this unproductive or inaccessible land would be deleted from the roll. Details were also sought regarding the relative Maori/European ratepayers in each county and the extent of rates arrears.¹⁰² The request was relayed to the Counties Association who then set about obtaining the information from each county. This elicited the response from the county clerk in Waitomo that 'It is impossible for me to compile a list of Native lands that should be deleted from the rate roll, but I would estimate that one-third of the lands in the schedule would come under this heading.'¹⁰³

By June too, the Native Land Court judges had discussed the issue at their conference. Interestingly, most of the shortcomings identified with existing legislation did not relate to the charging and receivership order provisions. Rather, the judiciary considered that the 'present real cause for non-payment' was the lack of reasonable and effective notice of a rates demand to the owners and the widespread inaccuracies in the rates roll. Other listed shortcomings included the prevalent idea among Maori that their lands were not rateable; the impracticality of expecting rates on land from which the owners themselves were not receiving any revenue; the number of small scattered uneconomic areas; and the inclusion of lands in development schemes. The proposal that eventually won the Native Minister's approval included draft amendments to the Act that would:

- Extend the Court's power to remit and discharge any rates levied on the grounds of the incapacity of the land in its existing state to provide sufficient net revenue to pay the rates;
- Enable local authorities to apply for a 'classification order' to classify land for rating purposes, setting out the extent of liability of any land, or exempting it altogether for a period;
- Enable the Court in making rates payable under such classification orders, to liquidate rates arrears, including charging orders;
- Enable the Maori Land Boards to collect rates declared under the classification, for a commission; and

¹⁰² Acting Native Minister to Under-Secretary Native Department, 22 June 1937, in above; DB:324

¹⁰³ Waitomo County Council clerk to secretary NZ Counties' Assn, 30 July 1937, 75/5 Rates Native, Waitomo DC; DB:2393

- Provide for the vesting of land incapable of paying rates by reason of its undeveloped state or through owner neglect, or deterioration, in the Maori Land Board, to be leased in line with Part 14 of the Native Land Act 1931.¹⁰⁴

It was considered that classification on these lines, with receivership orders restricted to ‘glaring cases’ where revenue for the payment of rates was apparent, would bring a practical solution to the problems being experienced. Campbell described it as a ‘system which would not only simplify the collection of rates, but would also ensure a maximum collection in all cases where it was equitable that the rates should be paid.’¹⁰⁵ Not surprisingly, local government was unimpressed. The Department’s proposals were rejected at the Counties Association conference in August 1938 on the grounds that they ‘would not greatly assist in the collection of rates.’ The same month the Farmers’ Union once again added its voice to the local government call to shift the local burden of non-payment to a national responsibility. Two months later the association came up with a counter proposal involving classification on the following lines:

1. Productive land farmed by individual Maori: existing collection provisions to be repealed, with the local body to instead submit unpaid rates to the Native Department each year, which would then register liens for such rates against the titles, and be responsible for the full rates, or part rates, depending on the productivity of the property.
2. Land farmed under recognised development schemes: the department to be responsible for payment of 50 per cent of the total rates levied, increasing by 12.5 per cent each year until the full amount charged annually is payable.
3. Unimproved land at present, but suitable for future development: the government to make an annual grant to the county council concerned of 25 per cent of the value of the total rates levied on such lands until productively developed.
4. Maori land incapable of development: to be exempt from all rates, and steps be taken by the county council to delete such lands from the rate roll.¹⁰⁶

An impasse had been reached: who was to pay for these classified unproductive lands? Under the judges’ classification scheme, the result for local bodies in Te Rohe Potae would be more of the same: large areas of unoccupied and unproductive lands classified exempt and bringing in no revenue. The association’s proposal clearly sought to move this liability to the State. And the State was no more willing in 1938, than

¹⁰⁴ J Harvey, ‘Suggested amendments to the Rating Act 1925’, MA 1 408 20/1/14 part 6; DB:557-559

¹⁰⁵ Under-Secretary Native Department to Native Minister, 29 June 1937, in above; DB:556

¹⁰⁶ Counties Association Native Affairs Committee resolution, 17 November 1938, MA 1 417 20/2 part 1; DB:635

it had been at any other time, to pick up the liability. The judges had considered that reimbursement from the Consolidated Fund entailed a return to the Department being responsible for recouping the money through stamp duties, and had dismissed it on this basis. Campbell had advised Peter Fraser, the acting Minister of Finance that the Government could not ‘on any account accept liability for native rates – it would be fatal.’¹⁰⁷ He did not say why. In his response to the association, the Under-Secretary explained: ‘If paid out of the Consolidated Fund some other rating authority or other section of the people would have to go short.’¹⁰⁸

The alternative was to do nothing, and after six years of protracted debate Campbell ended with:

I cannot help but think that the existing legislative authorities for the collections of Native rates are based on sound lines: that the procedure is little, if any, more cumbersome or costly than is the case with European rates, and that it would be as effective as the circumstances will permit if it is carried fully into effect.¹⁰⁹

The matter of course was not left there. The Counties Association was back to the Minister of Internal Affairs in August 1939 with the same complaint. Lee from Waitomo County Council led the discussion on Maori rating, pointing to the inequity of local ratepayers having to carry the burden of unproductive Maori lands. Both the Sheep Farming Industry Commission and the Farmers’ Union added their voices to the call for the government to assume responsibility for the issue. It was the case however, that classification as a means to overcome the problem had run its course. In the wake of the stalemate, the Native Department looked for other ways to alleviate the impact of non-payment. The Valuation Department was approached to cooperate in the correction of its rolls. Both Treasury and Public Works was approached in October 1939 to consider whether ‘more liberal treatment’ in the way of road grants could be afforded to local bodies with large areas of Maori lands.¹¹⁰ The engineer in chief replied that counties with large areas of both Maori and Crown land already received ‘special consideration’ over and above existing distribution arrangements which already took these factors into account.¹¹¹ Ongoing dialogue between the departments over the issue eventually led to the establishment of voted funds to provide access to development schemes in the following decade.

¹⁰⁷ Langstone to Acting Minister of Finance, 14 May 1937, MA 1 408 20/1/14 part 6; DB:554

¹⁰⁸ Under-Secretary Native Department to secretary, NZ Counties Assn, 9 December 1938, MA 1 403 20/1/1 part 3; Towers DB:635

¹⁰⁹ Ibid

¹¹⁰ Under-Secretary Native Department to Under-Secretary Public Works, 22 September 1939, MA 1 404 20/1/1 part 4; Towers DB:766

¹¹¹ Engineer in chief, Public Works to Under-Secretary Native Department, 12 October 1939, in above; Towers DB:760

The one local authority in this region which did use classification was Taumarunui County Council. This entity was created in 1922 when local government boundaries were reshuffled, and comprised most of the southern end of the previously defunct West Taupo County. The county was included in the rates compromises negotiated by Ngata in 1928 as part of the consolidation scheme, receiving £1000 for rates owing for the 'Maniapoto' part of its district. Like the other local bodies, the compromise payment was in satisfaction of rates arrears up until 31 March 1930. Unlike the other King Country local bodies however, rather than pursue the collection of rates through charging orders when the time expired, Taumarunui County Council resolved in 1933 to recommend the exemption of Maori land within its district under Section 104 of the Rating Act 1925. It was recalled some 20 years later that this was done 'in order to obtain relief from hospital rating and acting on the advice of the late Chief Judge Jones'.¹¹² The order in council was duly gazetted in November 1933, and amended by order in council in January 1939. Over 142,000 acres were affected, including 41 Rangitoto Tuhua blocks.¹¹³ The land was mountainous and remote and classification was made possible because there was virtually no Pakeha settlement in the area: for many years it was completely unserved by council in the way of road access. The exemption prevailed until 1955.

4.5 Returns from developed land

It will be remembered that State development of Maori land was the beacon of hope for struggling King Country local bodies making submissions to the 1933 Native Rating Commission. Hearn recounts that by 1936 there were 12 such schemes within the Waitomo electorate, comprising together 18,464 acres which had increased to 38,915 acres by 1941. Development continued to be touted by the government throughout the rest of the decade as the solution to the rating issue, couched in repeated statements such as:

the only way to combat demands for rates is to develop, improve and farm Native lands under the Native Land Development, so as to make them revenue producing and able to pay the rates demanded. The possession of land is of no use to either Maori or Pakeha, unless such land is made productive and able to meet its proportion of the liability for the maintenance of roads serving it.¹¹⁴

In spite of the rhetoric, the fruits of this development in terms of rates receipts proved very slow in coming. Native Minister Forbes had indicated early on that the Native Department would only pay rates

¹¹² Taumarunui County Council clerk to Under-Secretary Maori Affairs, 10 December 1954, ABJZ 869 W4644/59 20/1/16 part 1, ArchivesNZ Wgtn; DB:1263

¹¹³ *New Zealand Gazette*, 30 October 1933, in MA 1 406 20/1/7, not in DB. In the 1954 schedule of lands only two Rangitoto Tuhua blocks were listed. The reason for the discrepancy is not known.

¹¹⁴ Acting Native Minister to Waharoa, 29 September 1937, MA 1 403 20/1/1 part 3; DB:334

on lands under development once they produced a revenue surplus, and a resolution to this effect was formalised by the Board of Native Affairs in October 1935, notwithstanding the 1933 Native Rating Commission's recommendation that at least 50 per cent of the rates liability should be a charge second only to the living expenses of the occupants. The policy adopted by the Government was ultimately Treasury led, founded on the argument that development was being undertaken with loan moneys and rates could not be paid from borrowed development capital. A supporting argument was that marginal areas brought under development had previously returned no rates to the county council, and that the efforts of the Department would eventually make these lands revenue producing. 'The Councils will therefore benefit in the long run.'¹¹⁵ The same reasoning also applied to small farm development undertaken by the Lands Department. As occupier of large schemes under development, the Crown was not liable for general rates. As first mortgagee on affected Maori lands, the Crown was not liable for rates debts accrued prior to gazetting under Part 1/1936 development, although under increasing local government pressure Treasury eventually relented, agreeing in some cases to pay rates covered by charging orders so that development could commence.¹¹⁶

The lack of rating revenue from Crown land development was kept alive on a national level, the 1938 Counties Association remit for example echoing the 1933 Commission's recommendation calling for the payment of 50 per cent of the rates due on development lands, to increase by 12.5 per cent each subsequent year. These demands however were met by the unswerving government response that 'it is the policy of the Board of Native Affairs to pay current rates'¹¹⁷ when there is surplus revenue available.

Within Waitomo County, the council reacted by including development lands in its 1935 batch of applications for charging orders. Rates of £340 10s 8d plus costs were secured over lands in the Mahoenui Development Scheme as a result. Such action fell well short of providing the council with rates in the hand and it was not until the 1937/38 year that full rates were paid on the Te Kuiti base farm, all the other schemes still deemed to be 'not yet on a profit earning basis'.¹¹⁸ The continued refusal to pay rates on the schemes, some of which were large going concerns by this time, was a source of consternation to the local council. By 1939 the Mahoenui farm was said to be running over 6000 sheep and 919 head of cattle, and supporting a manager, three permanent hands and 30 labourers. When Langstone visited Te Kuiti in 1939, Broadfoot pointed to the Department's annual published report of a substantial income from this farm. He

¹¹⁵ See for example Native Minister Savage to Langstone MP, 30 April 1936, in MA 1 417 20/2 part 1; DB:149

¹¹⁶ See for example 'Rates: Maori Land Development', in MA 1 417 20/2 part 1; DB:662

¹¹⁷ See for example, Under-Secretary Lands and Survey to Under-Secretary Native Department, 3 April 1940, in above; DB:647

¹¹⁸ Auckland registrar to district officer Te Kuiti, 14 February 1941, MA 1 413 20/1/45; DB:603

was subsequently informed by Langstone that despite this revenue, the scheme had made a net loss on the year's working and there was as yet no surplus revenue available to pay rates.¹¹⁹ This was passed on to the council, Broadfoot condemning the news as 'an amazing admission of incompetent developmental methods.' Waitomo County Council, he maintained, had been 'sympathetic and patient towards these schemes and the net result is a studied and deliberate evasion of the payment of rates on the block.'¹²⁰ In July 1940 the council again inquired about payment from the Mahoenui scheme, and an article in *Truth* about the 'rating anomaly' in September smacked of Broadfoot's involvement.¹²¹ The result of the publicity was the payment in 1941 of the farm's first year of 'operating profit' of £215 to the county.¹²² Pressed by Wellington to negotiate for the remission of arrears on the strength of the payment and the promise of future rates, the Auckland registrar advised against such a course:

it would be extremely unwise in view of the present temper of the Council on the question of Native Rates to raise the question of a remission of past rates on Mahoenui at the present juncture.

I would suggest that the question of past rates be left in abeyance in the meantime. After a year or two when the Department has perhaps regularly paid current rates it will then, it is thought, be in a stronger position to suggest the total remission of arrears to the Council, and the Council will, it is considered, be then in a frame of mind more receptive to such a suggestion.¹²³

In the result the payment was put towards both current rates and arrears, prompting a reprimand from the Under-Secretary to pay only current rates in future.¹²⁴

In reporting on the various status of schemes to support rates in June 1940, the Auckland registrar noted that many of the schemes under Departmental management were 'marginal or salvage propositions', necessitating heavy capital expenditure.¹²⁵ The only other scheme close to posting an operational profit at this time was Kopua farm. Taumarunui County Council had had its eye on the dairy units at Waimiha since 1936, but it was not until 1940 that the registrar was advised to estimate the amount of rates due to each and charge the unit account accordingly.¹²⁶ Within Waitomo County a number of unit properties having steady dairy income were also identified at this time and 'steps taken' towards putting the

¹¹⁹ Acting Native Minister to Broadfoot MP, 22 December 1939, 75/5 Rates Native, Waitomo DC; DB:2427

¹²⁰ WJ Broadfoot to chairman, Waitomo County Council, 22 January 1940, in above; DB:2428-29

¹²¹ *New Zealand Truth*, 4 September 1940, in MA 1 404 20/1/1 part 4; DB:378

¹²² Auckland registrar to district officer Te Kuiti, 14 February 1941, MA 1 413 20/1/45; DB:603

¹²³ Auckland registrar to Under-Secretary Native Department, 15 October 1940, MA 1 404 20/1/1 part 4; DB:381

¹²⁴ Under-Secretary Native Department to Auckland registrar, 5 March 1941, MA 1 413 20/1/45; DB:605

¹²⁵ Auckland registrar to Under-Secretary Maori Affairs, 14 June 1940, MA 1 404 20/1/1 part 4; DB:373

¹²⁶ Langstone MP passed on the county council's inquiry to the Native Minister in March 1936, see MA 1 417 20/2 part 1; DB:627

occupiers on the rates roll, on the understanding that the county council would issue the demands to these occupiers direct, and seek recourse from the Department if the rates were not paid.

The move towards occupier liability in Waitomo involved close cooperation between the Native Department and the county council, the registrar charged with bringing the clerk on board as to approach: 'Once our settlers begin to pay rates they should continue to do so and when they realise that we and the County officials are adopting a reasonable attitude they will get used to the responsibility.'¹²⁷ By February 1942 rates notices were issued to the Department for 13 units which the registrar considered could afford to pay rates.¹²⁸ Part of the deal was that rates arrears accrued before 1940/41 would be written off. In reporting the developments to Head Office the registrar commented that it had not appeared necessary to him to obtain the occupiers' consent to pay the rates, notwithstanding the fact that initially at least, the payments would be loaded onto the unit accounts. The arrangement, following on the heels of recent rates payments for the Mahoenui scheme, was received by Waitomo County Council as a welcome breakthrough, and lauded in the local press: 'the Maori farmer has won for himself a full and proper place in the community, and with wise administration tremendous scope for the expansion of the scheme exists in this district.'¹²⁹

The county's success also seems to have encouraged other rating authorities to issue rates demands to dairy farmers in the county. Correspondence in Maori Affairs files from HT Roa protesting over having to pay drainage board rates once again highlights the extreme circumstances besetting Maori at this time. Writing from Rangiatea, Otorohanga, Roa claimed that the family's dairy venture had fallen on grim times with the death of 'practically all my children' between 1927-1931, followed by that of his wife and her father. Suffering from tuberculosis and farming a reduced herd, Roa claimed that he had no means to pay the rates for land that belonged to his remaining adult children.¹³⁰

Raglan County Council's attempt to extract rates from development units preceded that of Waitomo and was undertaken without any collaborative approach. According to the county clerk, council requests for rates from the occupiers of development lands were invariably met with the claim that the Department took all the farm income for bills. The council had gone to the length of obtaining a judgement against one such farmer, but it could not be executed because it was found, in fact, that 'all money was taken by the Department.'¹³¹ Rates demands were forwarded to the Department in July 1938 with the advice from

¹²⁷ Under-Secretary Maori Affairs to Auckland registrar, 28 March 1941, MA 1 404 20/1/1 part 4; DB:391

¹²⁸ Auckland registrar to Head Office, 12 February 1942, in above; DB:401

¹²⁹ 'Future of Maori Lands', *King Country Chronicle*, 16 February 1942, in above; DB:403

¹³⁰ See correspondence in MA 1 404 20/1/1 part 4; DB:404-406

¹³¹ Raglan County Council clerk to Auckland registrar, 19 December 1938, MA 1 403 20/1/1 part 3; DB:355

the county clerk that all the properties were in a state of production and all were served by good metal access. The demand was repeated in December.¹³² The registrar responded that a number of properties included on the county's list were either not revenue producing or not yet making a profit. Occupiers of units the registrar considered able to pay rates had been put on the valuation roll and the county clerk was advised to check the roll, and send formal demands for the current year directly to the occupiers. The clerk was not impressed with the Department's policy – 'There are any amount of farmers who will fail to show a profit this year, but nevertheless they have to pay their rates' – and he advised the registrar that the council would continue to demand current rates from all development properties.¹³³

Within Kawhia County, the first rates demands the council prepared for Maori lands were sent out for the 1937/38 year in July 1938.¹³⁴ This is in spite of the fact that the gazetted rating exemption over all Maori land within the county was in place. In addition to a 'parcel' of demands sent to the Waikato-Maniapoto District Maori Land Board, the occupiers of six development units were sent demands directly. The council initiative followed the visit of Acting Minister of Native Affairs, Frank Langstone to Kawhia in May, when he stated his intention that 'all Native Scheme lands which were being farmed should bear its share of rates'.¹³⁵ The amount of land under Native Department development in the county amounted to 2440 acres out of some 55,221 acres still in Maori ownership at this time.

For the Maori recipients, the rates demands came out of the blue. John Paki, an owner/occupier of land under development at Moerangi responded:

Re rates on the Moerangi 3G2 Sec. [which] is a sudden notice to me without any previous account or warning. This is first & final [which] I must state my position is without funds for this purpose which came to hand unexpectedly however the matter may be discuss[ed] by us natives so that we may fully understand the Position.¹³⁶

Another occupier, Moka Hopa informed the council that he had sent the demands on to the Native Department: 'You'll get better understanding from them, than from me.'¹³⁷

By June 1939 Kawhia County Council was complaining that no rates had been received from the development lands, which prompted an inquiry by the Native Department into the financial position of the

¹³² Raglan County Council clerk to Auckland registrar, 12 December 1938, in above; DB:353

¹³³ Raglan County Council clerk to Auckland registrar, 19 December 1938, in above; DB:355

¹³⁴ Kawhia County Council clerk to registrar Waikato-Maniapoto DMLB, 28 July 1939, 233033 Maori land, Otorohanga DC; DB:1691

¹³⁵ Kawhia County Council clerk to Native Minister, 15 June 1939, in above; DB:1694

¹³⁶ J Paki to Goldsbro, 10 August 1938, in above; DB:1693

¹³⁷ M Hopa to clerk, Kawhia County Council, 22 August 1938, in above; DB:1692

units in question. Of the six, only one was stated to be in a position to pay, and the council was told to send the demand to the registrar in Auckland for payment. That of John Paki was still under review. Notwithstanding Langstone's promise, with regard to the others the council was informed that 'the policy of the Board of Native Affairs precludes payment of the rates at present. Rates on all sections will however be paid as soon as the accounts show a surplus over living, maintenance and interest charges.'¹³⁸ Shortly after, an attempt was begun by council to obtain charging orders for three years of arrears against these properties, but it was not followed through.¹³⁹

In August 1940 rates were again demanded – via the Native Department – from Whare Moke, the sole farmer identified by the Department the previous year as being able to meet the payment. The sum for two years rates amounted to £83 8s 5d, for which the registrar attempted to effect a compromise: 'What reduced amount would your County accept in full settlement, if the Department sees that it is paid?'¹⁴⁰ The offer provoked a heated response from the council. Referring to the Native Minister's earlier assurance that the rates would be paid, the clerk went on:

A very long time has elapsed without tangible result while even now only one Maori 'Scheme' settler out of the large number for whose benefit a handful of unfortunate white settlers maintain many miles of metalled road is put forward as a potential ratepayer, a fact that appears to my Council wholly inconsistent with the spirit of the Hon. Minister's statement.

My Council considers that several of the Maori occupants of 'scheme' lands are fully as well able to pay rates as their white neighbours and that there is no case justifying partial remission.¹⁴¹

In the meantime however, Whare Moke had written to the Native Department about the rates demand, setting out his objections to being rated:

I do not feel disposed to paying rates at present. For your information 6 acres of our land were taken for road purposes, and at £12 per acre the value taken would be £72. My own opinion is the Government should pay for the acres taken. Just now the land is carrying a heavy debt in favour of the Government. When the Mortgage on the block has been paid off then we should be given credit for £72. I object to the initial sum of £83.8.5 being fixed for rates. No claim for rates should be made until the land is free from these encumbrances.

¹³⁸ Acting Native Minister to clerk Kawhia County Council, 19 September 1939, in above; DB:1695

¹³⁹ See for example Kawhia County Council clerk to Corbett, Mossman & Low, 26 January 1940, in above; DB:1696

¹⁴⁰ Auckland registrar to clerk, Kawhia County Council, 29 August 1940, in above; DB:1699

¹⁴¹ Kawhia County Council clerk to Auckland registrar, 27 September 1940, in above; DB:1701

With reference to the Aotea South 3B2 block, I have to point out that it has no access and it is situated a long way from the nearest road. It would cost about £15.000 to form a road to it, as sea-water and swamps will have to be crossed. I have already pointed out to you that there are 70 acres of this block not yet touched by the hand of man, besides you should know that I am not the only owner of this block, there are others.¹⁴²

In the event, the challenge Moke posed to the council was able to be side-stepped by the Department's payment of his rates (although this amount would have been added to his debt), at least in the short-term. The fact that this letter was in the county file, however means that the county council was made aware of his views. It is also noteworthy that although Maori farmers were supposedly on consolidated holdings, at least one unit was made up of a handful of small titles: Nora Pikia, perhaps the first woman farmer under the development scheme, received and paid five separate rates demands each year from 1943. By this time, on the advice of the registrar, the council was sending rates demands to the occupiers of the development units in the first instance, falling back on the Department when payment was not forthcoming.¹⁴³ In a few cases the Department continued to pay on behalf of defaulting farmers, although in doing so it negotiated the deduction of the penalty fee.¹⁴⁴ This practice was continued until 1950. The improved relationship between the two institutions by this time was reflected in the correspondence of the county clerk, writing in February 1943:

I wish to thank you for the help and co-operation you are giving in regard to this highly important question of Native Rating, and hope that our continued efforts will result in the most favourable attitude being taken by individual Maoris farming on their own as well as those who are units in your Department's Development Schemes towards the payment of their rates.¹⁴⁵

In June 1940 the Auckland registrar had expressed the doubt, 'owing principally to the personal factor', as to whether the unit properties would ever provide much surplus for the payment of rates.¹⁴⁶ Ten years on, the collection from Maori development units could not be said to have lived up to local body expectations. Of the 239 development units in the Waikato Maniapoto district, 87 were said to pay their rates independently, while the rates for a further 60 units were paid through the Department. The balance of 92 units did not pay rates, although this was qualified by the district officer who maintained that in

¹⁴² Translation, Whare Moke to Auckland registrar, 2 September 1940, in above; DB:1700

¹⁴³ Kawhia County Council clerk to Auckland registrar, 23 February 1943, in above; DB:1704-05

¹⁴⁴ Auckland registrar to clerk Kawhia County Clerk, 4 May 1943, in above; DB:1708

¹⁴⁵ Kawhia County Council clerk to Auckland registrar, 23 February 1943, in above; DB:1704-05

¹⁴⁶ Auckland registrar to Under-Secretary Maori Affairs, 14 June 1940, MA 1 404 20/1/1 part 4; DB:373

years of surplus, rates were paid on these units either from the occupiers' own resources, or by the Department.¹⁴⁷

The limited extent of Maori land development in Te Rohe Potae, and the degree to which this resulted in rating revenue for the local bodies, should be kept uppermost in mind in considering the web of local and central government discourse surrounding the collection of rates from Maori land. It is manifestly clear for example that while the rhetoric of local body complaint nationally in the decade of the 1930s had changed its focus to gaining 'a share' of the new-found production from Maori lands under development, this did not apply by and large in Te Rohe Potae. In this region the issue remained one of unoccupied Maori land and largely subsistence Maori farming. By the standards of fairness enunciated at this time, this land should not have been incurring rates. On the other hand, as set out in Chapter 9 and 10, it is clear that the extent of small-scale farming – and larger-scale community ventures – in the district was not supported with the basic amenity of road access. The clamour over unproductive Maori land in the King Country was matched only by local and central government neglect. Mired down by a system that responded only to the needs of individual ratepayers, it is difficult to determine to what extent the unproductive state of Maori land could be said to be the product of local government's own making.

The second issue that the State-run development schemes raises, which the local bodies were quick to point out, was the extreme government parsimony in assuming rating responsibilities as either occupier or first mortgagee. Up until November 1960, rates were only paid where an operating profit had been made. Grants could be made in lieu of rates, but government stipulations clearly linked such grants to the provision of local body service. Manual instructions within the Department of Maori Affairs (based on Lands and Survey practice) stipulated that such grants were only to be paid where the Department was practically the sole user of the road; where it relied on road maintenance for access; where the local body refused to maintain the road without a contribution; and where the road had in fact been maintained.¹⁴⁸ On top of this, any such grant was to be limited to the amount actually expended on the road by the local body, less any rates received from other users. It is inconceivable that farming operations undertaken by private individuals could avoid paying rates on the basis that the Crown did, and certainly rates were paid by the Department and then charged against the unit accounts of occupiers operating on considerably thinner margins. While the Crown's reluctance may be interpreted as being of benefit to the Maori landowners, the fact that charging orders against lands under development could still be – and were –

¹⁴⁷ Auckland district officer to Under-Secretary Maori Affairs, 11 May 1953, MA 1 417 20/2 part 1; DB:666

¹⁴⁸ See Maori Affairs correspondence on this issue, June 1957-June 1960, MA 417 20/2 part 2, ArchivesNZ Wgtn; DB:674-684

obtained, dispel any notion that this was in fact the government's motivation. The Treasury-inspired parsimony boded ill for concurrent proposals surrounding classification, discussed above.

4.6 Conclusion

Throughout the period under review the Government steadfastly positioned itself as a kind of 'middleman' between Maori and local government interests over rates enforcement, under the equally dogged contention that Maori should 'meet their rating their rating responsibilities wherever it is possible for them to do so.'¹⁴⁹ Advocate for the interests of Waimarino County in the first half of the 1930s, Frank Langstone in both his acting and permanent ministerial role, later found himself toeing the government line:

The Government has on the one hand to see that the Natives are not arbitrarily deprived of their lands through the burden of rates and on the other hand to see that both the European ratepayers and taxpayers are also protected and are not required to bear an unfair burden because of the inability or failure of the Natives to fulfil their obligations in respect of the benefits accruing to their lands from the expenditure of the local authorities in providing roading facilities and other amenities.¹⁵⁰

Langstone, like Forbes and Savage before him and Peter Fraser who followed, continued to field familiar local body complaints about non-collection of Maori rates with the argument that the only solution lay in elevating Maori to the point where they could afford to pay rates, through government-sponsored land development. In the meantime however, it refused to take responsibility for this policy, either with regard to Maori, by preventing the charging of rates and receiverships orders on unproductive lands (or removing the liability altogether); or to the local bodies, by providing financial relief in lieu of non-payment. Perhaps the best expression of this failing was the response of the Farmers' Union on the eve of the Second World War, to the all-too familiar government refrain:

My Executive is in full sympathy with the Government's policy of trying to provide for an assured and stable future for the Maori race. It appreciates very greatly the work the Government has done in the way of laying an economic foundation for the full citizenship of the Maori. My Executive takes the view, however, that whilst it is in the national interest that a liberal policy should be adopted towards the Natives until such time as they are assimilated into the economy of the country, it is unfair that one section of the community should be compelled, through the accidental circumstance of living in areas with a large

¹⁴⁹ See for example Acting Native Minister to clerk Kaikohe Town Board, 10 November 1936, MA 1 403 20/1/1 part 3; DB:310

¹⁵⁰ *ibid*

Native population, to bear a disproportionate part of the cost of the policy of Native establishment. National responsibilities should, we contend, be dealt with on a national basis and our responsibilities for the welfare of the Maori race is just as much a national matter as Defence, Education and the upkeep of the Police Force.

The policy adopted by the Government must, as you say, of necessity be a long-term one. It will be many years before it will be brought to complete fruition, or even to anything approaching that state. My Executive suggests that in the meantime – especially since the meantime is likely to be a long time – that the Government should accept the full implications of paternalism, and make payment of Native rates through the Native Department, out of the general revenue of the country. Even if this meant a slight increase in general taxation, it would be more equitable than the present arrangement.¹⁵¹

The Farmers' Union were not suggesting that the burden be shifted to individual Maori landowners, nor their land forcibly settled by others. Nor was it suggesting that the rates so paid by the Crown would once again become a charge against the land. Rather, it was pointing out that in areas where the problems were most acute, local communities should not be left to fight out what was essentially a national issue.

By the beginning of the 1940s the East Coast was beginning to resolve its rating pressure through improved rolls and development, and in Northland through butterfat returns. In the King Country however, the lack of rates from undeveloped Maori land was only exacerbated by the large portion of unoccupied Crown land, which continued to test local bodies and local communities. The potentially just solution of classification fell down in the detail of who was to pay for the withdrawal of potential rating revenue as a result.

The artifice of its self-prescribed role as the careful balancer of interests ignores the government's power to change the system to reflect its stated policy. If by 1933 it was seen to be inequitable to rate unproductive Maori land, why was not the liability repealed? If it was perceived to be as inequitable to have the local ratepayers carry the burden for both Maori and Crown land, why did the government not assume responsibility for the cost of classification of such lands? All of the government's posturing really amounts to a failure to tackle the issues, and to bear the cost of doing so.

¹⁵¹ Secretary NZ Farmers' Union to Native Minister, 26 September 1939, MA 1 404 20/1/1 part 4; Towers DB:754

Chapter 5

Unproductive Maori Land: A Matter of National Interest, 1945-1950

In the five years following the end of the Second World War the Pakeha debate over the rating of Maori land turned from one of obtaining a 'fair share' from developing lands to one of putting 'idle' Maori land to good use. As the last chapter has shown, this was not a new idea: King Country local bodies advocated the same to the Native Rating Commission in 1933. But in the period after the war, as the first renewable leases of the early nineteenth century came to an end in the King Country, the call for the productive use of Maori land reached a crescendo. This chapter traces the background to the government's capitulation in 1950 to enable the forced alienation of unproductive Maori land.

5.1 1945 Local Government Select Committee

The seeds of the 1950s legislation can be found in the recommendations of the 1945 Local Government Select Committee. The committee had been appointed the year before to consider the restructuring of local government as a whole, to meet ongoing concerns about the fragmentation of local authorities, both territorial and special purpose. The weakness of territorial authorities was attributed to their number, their size, their reluctance to shoulder responsibility, and the usurpation of their functions by both special purpose bodies and by the general government. The select committee recommended that territorial authorities – counties and boroughs – form the basis of local government, with an enlargement of both area and function to enable them to perform as effective local government entities. In view of their failure to do so voluntarily over the years, the committee also recommended the establishment of an impartial Local Government Commission to carefully review each case and put resulting schemes of amalgamation and reorganisation into practice, without the consent of either the affected bodies or their constituent ratepayers.

With regard to the rating of Maori land, the committee recommended a larger role for the Maori Land Court in view of its existing relationship with Maori landowners, both as an assessment court for the valuation of Maori land and by way of a 'backstop' rates collector if local body best efforts to collect rates in the usual way failed. Reflecting local body dissatisfaction with existing charging order and

receivership provisions it also recommended that provision be made for renewable leases – ostensibly to recover rates as a last resort – but also very much with the utilisation of unproductive Maori land in mind:

Quite a proportion of Native Land to-day is not being utilized effectively, and from some of it no returns are being derived at all. In fact, some first-class land, which is urgently wanted, is not being used. Subject to safeguarding the proprietary interests of the Maori population, the opportunity of leasing this land to approved tenants would not only guarantee that the land would be put to effective use, but would also enable rates to be collected. A further important point is that this unused Native land is frequently a breeding-ground for a great quantity of noxious weeds which are a menace to surrounding properties.¹

As a final safety net, the committee recommended State reimbursement of 50 per cent of general and special rates, and 100 per cent of hospital rates to local bodies on any amounts that could not be collected after the above procedures had been followed.

The proposed lease of unproductive lands pushed at the boundaries of existing practice. The 1925 provisions for receivership in the case of unpaid rates on Maori land had been designed with the immediate charging orders in mind, not the wider issue of land utilisation. Correspondence from Maori Land Court judges and staff solicited in the course of the 1945 inquiry reveal that lease terms under receivership agreed to by the Court were generally sufficient only to remove the incumbrance of the charging order, and no longer. Similarly, Section 540/1931 which provided for the appointment of the Native Trustee as agent to alienate unoccupied and weed-infested Maori land was also practically enforced at this time through leases no longer than ten years. Wanganui District Office reported that both means were applied to extract rates revenue from ‘those lands not in occupation but which can be made revenue producing’, but again only to a limited extent. Robertson, registrar at Auckland, reported in October 1948 that the number of Section 540/1931 leases throughout the entire Auckland district did not exceed 50, and nor did he envisage that future alienation under the provision would be significant.² The fact that few such orders or receiverships had been made as a result of local body action in the Waikato-Maniapoto district was attributed by a sympathetic Judge Beechey to the fact that ‘in rare cases only have I found their rolls and rate books and their proceedings sufficient to justify charges.’³ The judge attributed the ambivalence of local bodies to press for such applications to the short lease terms: ‘In the Te Kuiti District a lease for less than 42 years is not attractive and even a 42 year term without compensation is not

¹ Local Government Committee Report, AJHR 1945, I-15, p 162, MA 1 405 20/1/1 part 5; Towers DB:802

² Auckland registrar to Under-Secretary Maori Affairs, 29 October 1948, AAMK 869 W3074/387c 12/0 part 1, ArchivesNZ Wgtn; DB:977

³ Judge Beechey to Under-Secretary Native Department, 2 June 1945, MA 1 405 20/1/1 part 5; Towers DB:824-5

regarded with favour.’⁴ The 21-year term without provision for compensation was similarly cited by the clerk of the Waitomo County Council to explain why the numerous charging orders against Maori land obtained by the council had not been converted into receiverships: ‘nobody is interested in taking up leases for such a limited period.’ This was in spite of the fact that the council had in many instances accepted less than the amount charged from any lessee, so long as the deal was completed ‘as it is the policy of the Council to endeavour to have as much Maori land as possible taken over or leased by Europeans.’⁵

As at 1945 there was still considerable support among the judiciary for the classification of Maori land, with lands deemed incapable of production to be declared non-rateable. Working in Te Tai Rawhiti, Judge Carr’s stance had not changed from 1936, when he had condemned receivership leases as the means to dispossess Maori of their heritage. Carr argued that such classification should also apply to the economic circumstances of the Maori owners, and take into consideration factors such as the provision of access.⁶ Judge Harvey’s recent success in facilitating rates collections in the Bay of Plenty was similarly founded on the premise that only Maori lands capable of paying rates ‘with ordinary farming’, should be compelled to do so, with sympathetic consideration for those with few means.⁷

Of significance to Te Rohe Potae were the opinions of Judge Beechey and Judge Prichard, both of whom had a profound influence over Maori land in the Auckland district. ‘I have frequently discussed this native rating question with local bodies’ the incumbent Judge Beechey declared ‘and have found them perfectly reasonable in their outlook.’⁸ Local bodies did not want to expropriate Maori land through charging orders and sale, he opined, but rather sought annual income to provide for expenditure in their district. On the face of it, Beechey supported the classification of Maori land, with unproductive land deemed non-rateable, but there was a hook: ‘the rating authority would have a direct interest in assisting to see that sound unoccupied land should be suitably occupied’ - by means of development or vesting in the Board or Native Trustee for leasing.⁹ In other words, the judge supported the local body contention that Maori should be compelled to have their unoccupied lands capable of production leased. Beechey’s stance was echoed by newly appointed Judge Prichard, albeit in a clearer fashion, who drew on his experience of collecting rates ‘with some success’ as the solicitor for Clifton County. Prichard made the distinction

⁴ Judge Beechey to Under-Secretary Maori Affairs, 20 May 1949, MA W2490 48/2/3 part 1; Hearn DB:15/111

⁵ Waitomo County Council clerk to Postmaster General, 24 August 1950, 58/01/7 Maori Land Rating, Waitomo DC; DB:2377

⁶ Judge Carr to Under-Secretary Native Department, 1 September 1936, MA 1 403 20/1/1 part 3; Towers DB:725

⁷ Judge Harvey to Under-Secretary Native Department, 5 June 1945, MA 1 405 20/1/1 part 5; Towers DB:819-21

⁸ Judge Beechey to Under-Secretary Native Department, 2 June 1945, MA 1 405 20/1/1 part 5; Towers DB:824-5

⁹ *ibid*

between Maori lands that were unproductive due to their quality or situation, and those that were so because of the ‘neglect’ of the owners.¹⁰ In the case of the first, he considered that the Court should refuse to make charging orders for such land. In the case of neglect on the other hand, ‘with regard to land of reasonable quality we as a nation cannot allow it to lie unproductive and that in proper cases charging and receiving orders should be made or alternatively an order under Section 540, the term to be not more than necessary to make the land reasonably productive and to justify a suitable tenant to take it up’.¹¹ With regard to productive land Prichard considered that in most cases Maori should pay either part or full rates, and that the existing machinery for collection was sufficient. His observation that ‘the degree of productivity is usually so much less than that of the adjoining European owners’ was an early portent of an issue that would surface in controversy over the ‘neglect to farm’ grounds of the 1950s legislation. It is also significant that political resistance to development, and by inference rating, would not be countenanced by even the most sympathetic Carr: ‘Where it is found that owners are capable but won’t develop their land this committee might be directed to report that the land should be vested in a Maori Land Board for leasing’.¹²

The Government did not act on the recommendations of the 1945 commission of inquiry, and local body attention was momentarily diverted by efforts both to extract rates from the Maori Affairs Department for lands under development, and to have Maori rateable property omitted from the calculations of hospital levies.¹³ The first rumblings of renewed ratepayer discontent over ‘idle’ lands came via Federated Farmers with a remit from its Dominion Council to the Minister of Lands in April 1947 ‘That because of the heavy burden that is being carried by farmers in the Mokau-Awakino district, owing to the large areas of Crown and Native lands, the Mokau-Awakino branch urges the Federation to press for a payment of rates on land occupied by Crown and Native landholders.’¹⁴ The following year this was repackaged by the farmers’ lobby group on more general terms:

That until derating be accomplished, Crown lands, Maori lands, and lands of public bodies, excluding religious and charitable bodies, be subject to rates on the same basis as privately owned land, and any deficiency in payment be a charge on the Consolidated Fund, or on the Maori Department.¹⁵

¹⁰ Judge Prichard to Under-Secretary Native Department, 31 May 1945, in above; Towers DB:828

¹¹ *ibid*

¹² Judge Carr to Under-Secretary Native Department, 1 September 1936, MA 1 403 20/1/1 part 3; Towers DB:725

¹³ See for example Counties Assn 1947 remit by Johnstone of Raglan County Council, MA 1 405 20/1/1 part 5; Towers DB:816

¹⁴ General secretary Federated Farmers NZ Inc to Minister of Lands, 14 April 1947, in above; DB:415

¹⁵ General secretary, Federated Farmers to Prime Minister, 6 September 1948, in above; DB:437

Within Te Rohe Potae, Federated Farmers continued to play a strong lobbying role in the debate over the forced utilisation of unproductive Maori lands which gathered momentum throughout 1948. The submission of the Waitomo representative to the Sheep Industry Commission of Inquiry in Te Kuiti in October 1948 for example echoed the county council's arguments reported in the press six months before. On this occasion the delegate called for another inquiry to cut through the 'Gordian knot' of law, custom and administration surrounding the use of idle lands.¹⁶

The impetus from King Country local authorities for a solution to the 'Maori land problem' appears to have been rekindled by the termination of pastoral leases taken out 42 years before. The opening salvo in the renewed attack was published in the *King Country Chronicle* summed up in the headings 'Time Ripe for Action: Native Land Question Demands Attention: Burden on Ratepayers and Brake on District Progress'.¹⁷ The report was in fact a summary of issues to be debated at a forthcoming Counties' Ward conference in Hamilton on the topic.

Virtually all of [Maori land] to-day is covered in weeds and rubbish, unfenced and derelict, with perhaps a small clearing round the settlement. Apart from that clearing, this potentially good land, as most of it is, is of no use whatsoever to its owners; they do not use it, or do they derive any money from it unless it should come into farming occupation and it constitutes in several different ways, a menace and a liability to the district.

What, too, of the leaseholds that are falling due? Because the Maori leasehold title gives hopelessly inadequate compensation for improvements, the European lessee of Maori land naturally, if unable to renew lets a farm go derelict before surrendering his lease. And with thousands of acres of Maori leaseholds going to fall due in this territory within the next four years or so, what is going to be the future of the land?¹⁸

The article traipsed through the arguments: the loss of rating revenue from the 106,000 acres of Maori land in Waitomo County; the dearth of Maori farmers in the district; the quality and potential of the 'unused' lands; the pitfalls of multiple ownership; the inability to enforce collection; the compromise precedent of 1928; the recommendations of the Local Government Committee; and the solution to the problem: the renewable lease of 'weed-infested and unused Maori country' to 'bona fide farmers' with security of tenure and full recompense for improvements.

¹⁶ Reported in *New Zealand Herald* 18 October 1948, MA W2490 48/2/3 part 1; Hearn DB:15/117

¹⁷ 'Time Ripe for Action', *King Country Chronicle*, 2 March 1948, in 58/01/7, Waitomo DC; DB:2365

¹⁸ Ibid

At the conference in April, longstanding chairman of the Waitomo County Council Walter Lee promoted his council's solution to the issues of both lost rates and lost production:

- (1) That this conference considers that a compromise payment should be made forthwith to meet overdue rates on Maori land.
- (2) That a system be evolved after consultation with the local authorities whereby all useable Maori land shall become available for settlement, and liable for payment of rates under a satisfactory tenure.¹⁹

The second suggestion was softened by the chairman's explanation that there must be many young Maori willing to farm if they received assistance and cooperation. Walter Broadfoot, equally longstanding local MP, on the other hand was more forthright, advocating the 'taking over and using idle Maori lands as a step of fostering production.'²⁰ The MP claimed that Maori Affairs had more land under development than it could handle; that Maori landowners would not maintain the gains which had been made; and that the majority of Maori were destined for industrial work.

A follow-up article two weeks later reiterated the local body view of things with flourish. 'Motor through the King Country and notice the frequency with which, in the middle of a smiling landscape, you see great dark scars of fern, blackberry, and gorse – and it is a 95 per cent chance that you are looking at a tract of unused and derelict Maori land.'²¹ The article claimed that nine-tenths of Maori land in Waitomo County was derelict: 'masses of manuka scrub, gorse and blackberry disfigure the countryside, with at the best a few acres of poor grass around a dilapidated pa or homestead.' Quite apart from the threat posed from noxious weeds, the fact that less than one-sixth of the rates levied on this land were collected was said to account for the substandard roads throughout the county. According to the article, of the £6100 levied annually on Maori occupied land, up to £1000 was collected, £750 of which derived from Maori land development schemes and the balance from dealings in Maori lands and from the five private Maori farmers in Waitomo County. 'In the King Country', the article went on 'no one can claim that the Maori is a farmer'. The land development schemes were singled out as the only 'bright spots' where Maori could claim to have 'received any real benefit from his heritage of land', but little hope was held of expanding this development given the lack of resources. The difficulties posed by multiple ownership were set out as if of Maori making, the succession of interests being referred to as 'the Maori law of inheritance' with remarks about Maori 'fecundity' and the 'recognised fact that the birth rate has beaten the consolidation of titles, hands down.' What the article only circled around were the fundamental

¹⁹ Reported in 'Maori Rates Arrears of £57,000', *King Country Chronicle*, 23 April 1948, in MA 1 405 20/1/1 part 5; DB:420

²⁰ Ibid

²¹ 'Maori Land and Rates: King Country's Big Problem', *King Country Chronicle*, 5 May 1948, in above; DB:419

economic barriers preventing Maori landowners becoming farmers. It was acknowledged for example, that Maori housing conditions were bad. The solution? Exchanging the land asset for improved housing. The implicit argument was that without the necessary capital, all 106,000 acres was 'of no use' to Maori, and should be taken up by those with means. Leasing would retain the Maori 'proprietary interest' in the land, but any arrangement would need to provide for the compensation for improvements:

The European farmer, at least in this district, would probably, after his creation of the greater part of the unimproved value by bearing the whole cost of roading, pay that cost a second time through a lease based on that unimproved value. He will be very reluctant ever again to enter into an agreement providing that, after he has turned a property from wasteland to productive farm, the Maori owner can walk in at the end of the lease and collect virtually the whole betterment.²²

In June 1948 Lee took his remits to the Counties Association conference. Again, his proposal for bridging both issues – that of rates and idle lands – was the development of Maori lands in as short a time as possible. The remits were carried.²³ The Waitomo County Council chairman was part of a Counties Association delegation to Prime Minister Fraser, also Minister of Maori Affairs, and other Cabinet ministers on 31 August 1948. Four other MPs and department officials from Maori Affairs and Internal Affairs were also present. Maori rating was one of three issues on the table.

To some extent the delegation found themselves on the back foot. The 1946 election outcome had meant that Labour depended on the four Maori seats for the margin it needed to continue in government, which gave Maori a degree of policy leverage with Fraser. Local body complaints about Maori non-payment were also wearing thin in the light of experience in counties like Wanganui and Waipua where, as a result of improved communication with their Maori ratepayers and alternative arrangements like butterfat deductions, together with increased rates returns from Maori land development schemes, rates returns from Maori land had improved markedly. Lee was pointedly asked whether the affected local bodies had bothered to approach their Maori communities about the issue. In response, the delegates pointed out that the issue of Maori rating was one of development and the King Country was singled out as a district where there was a 'multiplicity of small areas of land ranging from 20 acres to 100 acres, a great majority of them uneconomic units and something should be done ... [so] that they could be successfully leased if the Maori people did not want to farm them.'²⁴ Lee added that there had not been any advance in the development of Maori land in his district, and that many farms were owned by absentee Maori owners

²² Ibid

²³ 'Uncollected Rates on Maori Land: Old Problems', *Rotorua Post*, 13 June 1948, in above; DB:422

²⁴ 'NZ Counties Association Deputation...', 31 August 1948, in above; DB:431

and should be brought into proper occupation. In the course of the discussion it was claimed that Maori occupancy in the King Country amounted to peasant farming because land titles had become so small, and that any gains from consolidation had been short-lived.

State development of Maori land, the Government countered, was hindered by the scarcity of materials and machinery. Skinner, Commissioner of State Forests, claimed that the amount of land under development was increasing every year and that as soon as resources became available the position would improve. In which case, Lee pressed, it would be reasonable to assume that some provision be made in the meantime to make up for the unpaid rates from unproductive Maori lands. This, after all, had been the conclusion of no less than four commissions of inquiry into the issue. The Waitomo County Council chairman was at least aware of the financial barriers facing potential Maori farmers. Speaking of the 1928 attempt at consolidation he stated: 'It was recognised that it was a costly job and also that there have been difficulties in the way of carrying it out, and until it could be carried out and the people were in such a position that they could pay rates from the product of the land it was unfair and unjust with even the interest and sinking fund payments on existing funds having to be made from revenue that would have to come from those lands.'²⁵ Given his remedy for unproductive lands however, the motivation of such expressed concern is questionable.

No promises were forthcoming at the meeting. Fraser told the deputation that the question of leasing unused land had been circulated to Maori Land Court judges for comment – a reference to the 1945 correspondence set out above – and the Maori Affairs official present stated the issue had been under consideration for some time. On 10 September 1948 the secretary of the Counties Association again pressed Prime Minister Fraser for a formal response to the issues that had been raised.²⁶ A similarly non-committal response was prepared by Acting Native Minister Tirikatene at the end of October but it does not appear to have reached the association. In the absence of figures setting out the details of arrears and what counties might accept in lieu of payment, Tirikatene declined to consider the matter of compromise, but the association was invited to make further representations. It was pointed out that the 1928 precedent for compromise had provided for the reimbursement to the Crown of value in land, and that the present proposal was wider than this. The issue of forced settlement of unproductive lands was fobbed off altogether, the Acting Minister repeating the government reassurance that every effort consistent with the availability of labour and necessary materials was being made to bring unoccupied and neglected Maori

²⁵ Ibid; DB:433

²⁶ Secretary, NZ Counties Assn to Prime Minister, 10 September 1948, MA 1 405 20/1/1 part 5; Towers DB:804

land into production, either under Maori Affairs development under Part 1/1936 or by action under Section 540/1931.²⁷

Pressure, meanwhile, was mounting. The previous stories in the local press were picked up by the *New Zealand Herald* in October 1948 under the sensational heading ‘Rich Farm Lands Lost: 300,000 acres in idleness’.²⁸ The issue of expiring leaseholds had been raised in the House the week before by Broadfoot.²⁹ The Department’s response to both attacks was to call for an urgent ‘utilisation survey’ of Maori land in the King Country. The situation would be monitored, Parliament was told. In the case of vested lands, there were statutory provisions to keep lands in production. With regard to private lease arrangements, the owners would need to be consulted on the future use of the farm lands.

Within the Maori Affairs bureaucracy itself, the King Country local bodies had an ally in Judge Beechey. In June 1948 he suggested that the Department consider perpetual leases to meet King Country circumstances:

In the lower Waikato I believe that a perpetually renewable lease with revaluations every 21 years and a right of resumption by owners at the end of any period of 21 years on payment of compensation would be a distinct advantage to both lessees and owners. I believe the present demand for land in that area could be met to some extent by this method, but it would of course require legislation.³⁰

The judge had in mind all leases of Maori land, including those vested in the Maori Land Board, many of which were soon to expire. Beechey claimed to have discussed the matter with the ‘practitioners’ in his district who all agreed that ‘such a lease would be a distinct advance in the settlement of Maori land’. His minute was forwarded to Chief Judge Shepherd, now Under-Secretary for Maori Affairs. Robertson, the Auckland registrar subsequently elaborated:

Judge Beechey and the officers of the Department here have been impressed by the manifest deficiencies of the law whereby a lease of Maori land is limited to 50 years. In practice a 42 year term is usually the greatest one granted, and this term does not provide sufficient inducement for the development of unimproved land under present conditions, particular as the Court has been hesitant in recent years to provide in the leases for compensation for improvements.

In the Te Kuiti district at the present time a considerable number of 42 year leases which were taken up when the King Country was settled in the early years of this

²⁷ Minister Maori Affairs to Minister Internal Affairs, 28 October 1948, in above; Towers DB:800-1

²⁸ *New Zealand Herald*, 19 October 1948, MA W2490 48/2/3 part 1; Hearn DB:15/116

²⁹ Supplementary Order Paper, 10/11/1948, in above; Hearn DB:15/104

³⁰ Judge Beechey to Auckland registrar, June 1948, AAMK 869 W3074/387c 12/0 part 1; DB:975

century are now falling in, and great difficulties are arising through the reluctance of some of the owners to negotiate for new leases. In many cases the owners are quite unable to farm the land themselves.³¹

Beechey's proposal was not immediately passed on to the Minister of Maori Affairs in view of his 'decided views' on perpetual leases, but in August Beechey insisted that Fraser be informed of the issues. His proposal was also circulated among other district offices for comment. Brooker, registrar at Wanganui, was highly critical of the suggestion. Experience in his district, he maintained, had amply demonstrated that the net result of such leases was the gradual confiscation of the owners' interests, and that on the expiration of any period of 21 years there was very little prospect of the owners being able to resume the land, for the value of the improvements would in almost every case be in excess of the amount which the owners could borrow on the security of the property as a whole, concluding: 'Judge Beechey's suggestions appear to be directed more to the settlement of Maori land by others than Maoris on favourable terms than to providing a solution under which the interest of the Maoris themselves are preserved.'³² The registrar's feedback was supported by the district judge who added that Maori hated the perpetual 'ake ake' leases, and that extending the provisions of Section 540/1931 would be tantamount to rubbing salt into an open wound.

Towards the end of February 1949 Fraser was again pressed by the Counties Association for a response to the delegation of August. His reaction to a similar proposition from Federated Farmers at this time calling for the compulsory acquisition of Maori land for returned soldier settlement provoked a seemingly uncompromising stance:

The great bulk of all unfarmed land is either undeveloped or reverted and in many cases can be classified as 'marginal', and while it is agreed that such unoccupied land should be brought into production as soon as possible, the advantages of this course must be weighed against the disadvantages likely to accrue from diverting the already inadequate supplies of farming materials (and to a certain extent labour) from existing farms to areas unlikely to yield a considerable return for some years.

The wholesale compulsory acquisition of Maori land could not be conscientiously attempted by any Government of this Dominion in the face of the Treaty of Waitangi which confirmed and guaranteed to the Maoris the 'full, exclusive and undisturbed possession of their lands so long as it is their wish or desire to retain the same in their possession', [nor] could it consider lightly the taking of such

³¹ Auckland registrar to Under-Secretary Maori Affairs, 29 October 1948, in above, DB:977

³² Wanganui registrar to Judge Dykes, nd, in above; DB:979-980

lands which might be required for the establishment of an ever increasing Maori population.³³

The government was committed to a policy of land improvement, the Prime Minister went on, so that full utilisation of undeveloped areas could be achieved. He referred to the survey of undeveloped land owned by Maori currently underway, and reminded the federation of the gains already made with Maori land development under Part 1/1936. His response to the Counties Association three weeks later was a little less forthright, the notable omission being the government's duty to abide by the Treaty of Waitangi. Nonetheless Fraser continued to resist the wholesale transfer of tenure of unproductive Maori land. There was already an insufficient land base left for Maori he explained, and 'a general scheme involving anything in the shape of compulsory dispossession would be bound to meet with the most serious objection.'³⁴ In addition it was argued that most Maori land now lying idle was in fact marginal, best – and perhaps only – developed with State assistance (with the statements in the draft copy of the letter about the shortage of labour and materials expunged). Fraser drew attention instead to the existing provision of Section 540/1931 for the utilisation of unoccupied Maori land 'in certain circumstances', and suggested that affected local bodies make more use of the provision. On the issue of compromise the Prime Minister repeated the point he had made to the deputation in September that, in view of the general improvement in rates collections from Maori land, local bodies were not as badly off as they had once been. Echoing Tirikatene, he explained that the 1928 compromise had been made to give effect to consolidation: 'Patently the system under which the Crown received a quid pro quo in the shape of land cannot be extended indefinitely.' Ultimately, a government bail-out was seen as setting a dangerous example: 'To imburse some Councils now would be virtually to set at large the law governing the rating of Maori land and to impose a premium on the efforts of those Councils who have been successful in collecting the rates.'³⁵

Just over one week later Broadfoot obtained an audience with the Minister of Maori Affairs and his department officials. The topic was 'Utilisation of Maori Lands in the King Country' and Broadfoot's opening argument was carefully framed:

increased production was a dire necessity today and he considered a very material contribution could be made from the utilisation of Maori land. In his electorate Maoris still retained some of the best portions of their lands but it was found in most cases that development of these lands is beyond the financial and physical

³³ Minister Maori Affairs to secretary Federated Farmers, 23 February 1949, MA W2490 48/2/3 part 1; Hearn DB:15/118

³⁴ Prime Minister to secretary NZ Counties Assn, 17 March 1949, MA 1 405 20/1/1 part 6; Towers DB:857

³⁵ Ibid

capacity of the Maoris themselves. In the main the Maoris still want to be the owners of their lands. Some of the areas are individually owned but in some cases where there are a great number of owners the thing would be to try and get the owners to have the area vested in the Crown and they could draw an income. Thus the Crown would be able to go on with development and the people on the land would have security of tenure. He considered there is a lot of Maori land that could be made available to Europeans, as at present these lands are lying practically idle and fast reverting to gorse and blackberry. The Maori today seems to be following the industrial line as, according to statistics there are only about 25% of the Maori absorbed on the land.³⁶

Specific examples of reverted properties were cited by Broadfoot to illustrate his point, which he repeated before he withdrew from the meeting: ‘The Maoris should be encouraged to take an interest in the development of their lands. Those not farming their lands should receive something in the nature of rent and the land could be farmed for them.’³⁷ Broadfoot had framed the issue in terms of the national interest, and had cleverly extended the emotive arguments surrounding the reversion of known local farms to encompass the more general category of unproductive Maori land, to good effect. ‘[F]rom the information disclosed by Mr. Broadfoot’, Fraser responded, ‘the position was very serious indeed and it was the duty of the Government to see that something was done about it. The problem was a moral as well as a practical responsibility.’ His department officers were exhorted to investigate the situation urgently: ‘in the interests of the country the position would have to be tackled at once. Good land could not be allowed to revert to gorse and blackberry and if the people were leaving the land go back it was the duty of the Government to take steps to have the land brought into production.’³⁸ Newly appointed Under-Secretary Tipi Ropiha agreed that ‘in the interests of the country’ Maori land should be developed and owners paid rent on the unimproved value.

Fraser’s response appears as a complete about-face from the fortnight before, but it did not herald a complete abandonment of the principles he had earlier espoused. A schedule prepared by Waitomo County Council of leaseholds that had either fallen in, or were about to, reveals that in fact only 18 properties were affected, amounting to about 5500 acres and representing some £481 in potentially lost rates.³⁹ As the clerk pointed out to Broadfoot, this list could not be treated as complete or exact because the county council did not have all the details of lands under lease. Nonetheless, the proportion of ‘reverted’ land creating all the fuss was but a small fraction of 90,000 acres commonly touted as the area

³⁶ ‘Utilisation of Maori Lands in the King Country’, 25 March 1949, MA W2490 48/2/3 part 1; Hearn DB:15/112

³⁷ *ibid*

³⁸ *Ibid*

³⁹ With Waitomo County Council clerk to Broadfoot MP, 15 February 1950, in 58/01/7 Maori Land Rating, Waitomo DC; DB:2376

of 'idle' Maori land in the Waitomo County. The departmental 'investigation' called for by Fraser as a result of the meeting with Broadfoot continued throughout 1949. Robertson reported in September that several meetings with the owners of expired leaseholds had been held:

In some cases the owners are making private arrangements for the re-leasing of the lands and these will come before the Maori Land Court in due course. In other cases proceedings were taken which will provide for the lands being farmed by representatives of the owners with the help probably, of this Department. Recommendations for any assistance required will go forward in due course after certain preliminaries have been settled.⁴⁰

This news bears the under secretary's annotation that 'the Minister has expressed the hope that new development work in the Te Kuiti District will be energetically prosecuted and that an early commencement is desired.' The fact that Ropiha also requested the details of arrangements for each expired lease in order to answer questions in Parliament indicates that the issue had not abated.

The government and its bureaucracy and even the judiciary had swallowed the rhetoric that the development of 'idle' Maori land was a matter of national moment. Ropiha opened a departmental consolidation conference in May, for example, with the assertion that New Zealand should play its part in feeding an increasing world population, which entailed producing as much primary produce as possible in the future – with the direct reference to the noxious weeds problem in the King Country.⁴¹ Maori Land Court Judges Morrison, Harvey and Prichard were at the conference. The Auckland registrar's proffered solutions to the 'problems' of multiple title in the King Country were drawn from past experience: either the old 'open chequebook' system of Maori land purchase to enable Pakeha settlement, and Maori settlement on Crown lands; or else the tried and tested 1906 classification of lands, with areas vested in a board for Maori settlement and some set aside for Pakeha.⁴²

Notwithstanding Robertson's opinions, the Maori Affairs Department was still largely contemplating the development of unproductive Maori land for Maori settlement. By August Robertson had prepared a preliminary schedule of idle or unoccupied Maori land in the Waikato-Maniapoto district which he considered could be made available for development.⁴³ A total of 100,864 acres was set out in 32 block subdivisions, ranging from 20,000 acres in Rangitoto Tuhua to 400 acres in Waikarakia Block, all said to be Maori land with numerous owners. He also reported on progress with Part1/1936 development

⁴⁰ Auckland registrar to Under-Secretary Maori Affairs, 1 September 1949, MA W2490 48/2/3 part 1; Hearn DB:15/107

⁴¹ Minutes of Consolidation Conference, 9 May 1949, AAMK 869 W3074 29/1 part 2; Hearn DB:1/253

⁴² Ibid

⁴³ Auckland registrar to Under-Secretary Maori Affairs, 5 August 1949, in above; Hearn DB:1/108

proposals near Te Kuiti, namely 1450 acres at Arapae and 2300 acres of Arapae and Whiriroa blocks, with the confident assertion that ‘When the Organisation gets moving it should be possible to take up other blocks at frequent intervals and thus gradually to expand development operation in the King Country.’⁴⁴ However the huge disparity between the amount of Maori land Robertson had identified for development, and the Department’s achievements to date – made even more painfully clear by Robertson’s fretting over the difficulties in obtaining fence posts – could hardly inspire confidence in the Government’s commitment to find a solution that would benefit Maori landowners. Moreover State assistance under Part 1/1936 entailed the relinquishment of owner control to the Department, under increasingly tightened financial strictures demanded by Treasury.⁴⁵ Maori Affairs development assistance came with unattractive strings and hooks for Maori landowners, not least of which was the length of time before scheme lands became available for settlement, and the fact that owners had little say in deciding occupancy. As set out in Terry Hearn’s report on land development, the schemes ultimately became productive and extremely valuable economic assets, but at the expense of owner control and enjoyment of their lands.

5.1.1 The utilisation of Section 540/1931

Fraser’s response to the Counties Association in March 1949 was a disappointment to the local bodies of Te Rohe Potae faced with continuing poor rates returns from Maori land. The figures below show the position for the 1949/50 rating year, which were used by Federated Farmers to advance their cause of utilising ‘unproductive’ land.⁴⁶

County	Total struck (£)	Total collected	No. independent Maori farmers	Amount paid by such farmers
Waitomo	6179	982	7	78
Otorohanga	2420	459	15	204
Kawhia	2661	383	2	22

From 1946 Kawhia County Council had begun sending rates demands to Maori landowners which had resulted in a handful of individual payments. On the whole however, the problem of non-payment

⁴⁴ Ibid

⁴⁵ See for example Treasury correspondence in MA W2490 60/1 part 4; Hearn DB:15/159

⁴⁶ ‘Appendix to Submissions by Northern King Country Federated Farmers to Royal Commission of Inquiry into Vested Maori Lands’, nd, 58/01/7 Maori Land Rating, Waitomo DC; DB:2373

remained. In November 1947 the cash-strapped council had appealed to the Minister of Works for a £10,000 maintenance grant to keep its district roads open, signalling a district in serious decline:

The majority of the roads have not had any contract metalling for some 10 to 12 years, with the result that in many cases the foundations are coming to the surface. The Council is agreed that unless something urgent is done in the way of metalling before next winter it will be necessary not only to close a number of its side roads but also to request that authority be given to close some of the Highways. The constant washouts that occur in this County during the winter cause serious trouble to the roads with a resultant stoppage and closing to the farmers.⁴⁷

Once again, the county's woes were blamed on the large amount of Maori land and its history of non-payment of rates. The claim was made that Maori access roads had been kept open entirely out of European rate monies, and where rates were collected from Maori, the council had given an assurance that the money would be spent on their particular roads. 'My Council is trying to assist the Maoris in opening up and farming their lands, and to do this roads are required and finance necessary.'⁴⁸ Tellingly, no such 'Maori' access roads featured in the clerk's listed works for attention, with the exception perhaps of the Whakapirau Valley Road which was the closest vehicular route to the Taharoa community, two miles and a boat ride away (see Chapter10).

The county's plea was turned down on the grounds that the issue was one of maintenance, a local body responsibility. This was hard news for Pakeha farmers already faced with the extremely high rate of 1s 5½d in the pound on the unimproved value of their land. It also provoked another resolution by council 'to make an all-out assault on Native Rates'. This did not include the application for charging orders, for this was found to be 'too uncertain and too costly where the problem was so extensive, and the benefits to be ultimately derived were in the too distant future.'⁴⁹ Thinking laterally, rates demands were translated; and preference given to ratepayers for council work, and then insisting on the deduction of rates from their wages. Throughout 1948, following Wanganui County's lead, the council tried 'talking' Maori into paying rates – with little success. It seems that farmers at Taharoa were primarily targeted for this attention for it was here that farming of any magnitude, other than the development schemes, took place. In November 1948 the council resolved the following mouthful:

if a reasonable proportion of the Maori people give effect to their suggested gesture of co-operation by paying their full Rates for current year, this council will take

⁴⁷ Kawhia County Council clerk to Minister Public Works, 24 November 1947, IA 1 W1729 65 103/143/7; DB:19

⁴⁸ Ibid; DB:20

⁴⁹ Kawhia County Council clerk to secretary NZ Counties' Assn, 15 December 1949, 233033 Maori land, Otorohanga DC; DB:1729

steps at once to have a road completed as soon as possible, and that, under these circumstances, in future years, in order to ease the burden of freight charges which they have at present to pay, the council will accept a half of the Rates until this road is useable by vehicular traffic.⁵⁰

The lack of success in obtaining voluntary payments was attributed by the council to political motivations, namely the King movement: 'The Maoris are of a very different type and are quite unwilling to co-operate with Europeans.'⁵¹ Rates receipts from Maori lands had trebled in the three years from 1946-1949, but were still only £45 of the £1148 levied.⁵²

The council was in fact hamstrung to a large extent by the lack of funds. The advantages of employing a special collections officer who could speak Maori were acknowledged, but the council balked at the cost. The suggestion that the council pursue legal remedies under Section 540/1931 was discounted for the same reason. 'To do so would involve careful surveys of the Maori land in the County by somebody with considerable detailed local knowledge. This again would involve the expenditure of considerable sums of money which could be ill spared from road maintenance for an uncertain gain.'⁵³ Both Kawhia and Waitomo County Councils took umbrage at Prime Minister Fraser's stance, in particular his statement that remaining 'idle' Maori land was by and large marginal.

With regard to this County, that statement argues a lamentable lack of knowledge on the part of the Minister of Maori Affairs. The whole of Taharoa, a large area on the southern side of the Harbour, is excellent land, but developed only to a very small degree by the Maori owners. A broad belt of good, easy country lies, unused, almost right round the Harbour. Several other areas of fine, easy farming land in various parts of the County also lie idle. One property of 325 acres of first class land, good situation, well-watered, easy country, is farmed by its Maori owners (a large family of young men) to the extent of carrying 7 cows and 100 sheep. No good purpose can be served by labouring the point.⁵⁴

By December 1949 Kawhia County Council appears to have changed its position on a further government rates compromise, or 'ex gratia payment', arguing that this could ever only be but a temporary fix. Rather, the 'iniquitous state of affairs ... where every European settler is called on to bear not only his own

⁵⁰ Kawhia County Council minute book, vol 4, 10 November 1948; Digital DB:Local Body Records/Otorohanga DC

⁵¹ 'County of Kawhia', nd, 233033 Maori land, Otorohanga DC; DB:1734

⁵² 'Maori rates' with Kawhia County Council clerk to secretary NZ Counties Assn, 15 December 1949, 233033 Maori land, Otorohanga DC; DB:1731

⁵³ Ibid; DB:1729

⁵⁴ Ibid; DB:1730; see also Waitomo County Council clerk to secretary Counties Assn, 18 May 1949, 58/01/7 Maori Land Rating, Waitomo DC; DB:2369

burden but that of his Maori neighbour' required legislative change to put the collection of rates from Maori land on the same basis as land in European occupation.⁵⁵

For its part, Waitomo County Council too claimed that the 106,000 acres in Maori ownership was equal in quality to that of European land. The percentage of rates returns from Maori land had increased over time – a trend that Lee attributed to the development schemes – but by 1949 the amount collected was still less than a third of that struck.⁵⁶

Year	Struck (£)	Collected (£)	%
1940	5011	198	4
1941	4897	256	5.2
1942	5196	235	4.5
1943	5335	772	14.5
1944	5416	560	10.3
1945	5433	616	11.3
1946	5508	453	8.2
1947	6746	1511	22.4
1948	6548	1289	19.7
1949	6379	1773	27.8

Lee signalled his renewed interest in Section 540/1931 and further charging orders, but expressed his dissatisfaction that delays in leasing would mean lost rates. The fact that the 'council found difficulty in ascertaining the owners of the properties' was also highlighted as an issue.⁵⁷ At the Waitomo County Council's monthly meeting in August 1949, debate once again turned to Maori rates collections with the disappointing news that Maori Affairs development scheduled for the district amounted to only 20,000 acres which would leave the rating issues associated with unproductive Maori land 'virtually untouched'. Coupled with the prospect of maturing leaseholds, the outlook for road maintenance was gloomy. The meeting resolved to investigate extending 'the matter of confiscating under Order 540 of the Maori Land Act' to target expired leaseholds, so that areas which had been farmed would not revert under 'irresponsible owners'.⁵⁸ This initiative was supported, if not inspired, by Broadfoot who immediately wrote to the council with five test properties for prosecution. These ranged in size from a 4½ acre block

⁵⁵ Ibid

⁵⁶ Rates rounded to nearest pound, 'Waitomo County Council Maori Rating', MA1 413 20/1/45; DB:613

⁵⁷ Reported in *New Zealand Herald*, 18 May 1949; not in DB

⁵⁸ 'Rates from Maori land', *King Country Chronicle*, 25 August 1949, in MA 1 405 20/1/1 part 6; DB:441

near Te Kuiti Borough to a 955-acre leasehold which had recently expired.⁵⁹ By 14 October 1949, O'Brien the county clerk was advising council that the time had come to take action against Maori defaulters. Maori farmers would be given the opportunity of making arrangements to meet their rates, with provision for the remission of arrears. Should they refuse to cooperate, immediate steps would be taken to obtain charging orders followed by applications for the appointment of a receiver. In the case of unoccupied Maori land, applications would be made for orders under Section 540/1931. As a result of collaboration with the Maori Affairs Department, steps were underway to have the valuation rolls corrected and kept up to date.⁶⁰

Waitomo County Council proceeded with applications for the first three of Broadfoot's suggestions. Advised by Judge Beechey that evidence of specific lessee interest in the lands would be essential to a court order, the council again turned to the MP for suggestions as to potential lessees of the Te Kumi and Pukenui blocks.⁶¹ Broadfoot was also informed of the outcome immediately after the hearing: the application for the small section near Te Kuiti had been adjourned for six months to give the owners the opportunity to clear the land and organise a short-term lease; Te Kumi A6 had similarly been adjourned because it had been vested under Part 1/1936 for development. Vesting orders were made for the Pukenui blocks by the viaduct. The council was encouraged by the Court's reception of the applications: 'the Judge was most helpful and stated that he was pleased to see that the Council was taking this action and was prepared to assist in putting the land under development and in occupation if the Maori owners were not using same'.⁶² He was assured, in turn, that the county would lodge more applications for the next sitting.⁶³

By mid-November 1949 the county clerk was sharing the benefit of the experience with the Piako County Council, outlining the necessary prerequisites for taking action under Section 540/1931. Owners had to be notified of the hearing, the council advised, and evidence provided to the court that the property was unoccupied and unfarmed; that the noxious weeds were a menace to neighbouring properties; that it was capable of being leased; and that bona fide lessees were prepared to tender for the lease once the vesting order had been made. Were these conditions met, the Piako county clerk was told, the judge had intimated

⁵⁹ Broadfoot MP to Waitomo County Council clerk, 24 August 1949, 58/01/2 Maori Land Vesting Orders Correspondence, Waitomo DC; DB:2255. The blocks suggested by Broadfoot were Te Kumi A23 (4½ acres); Pukenui B20 (57 acres) and B21 (107 acres); Te Kumi A6 (153 acres); and Pukenui 2H2 (955 acres).

⁶⁰ Clerk to chairman and councillors, Waitomo County Council, 14 October 1949, 58/01/7 Maori Land Rating, Waitomo DC; DB:2370

⁶¹ Waitomo County Council clerk to WJ Broadfoot MP, 4 October 1949, 58/01/2 Waitomo DC; DB:2257

⁶² Waitomo County Council clerk to WJ Broadfoot MP, 12 October 1949, in above; DB:2258

⁶³ 'Waitomo County Council: Applications under Section 540 Maori Land Act 1931', in above; DB:2259

that the Maori Trustee would grant leases for 42 years.⁶⁴ Two months later the council had indeed prepared Section 540/1931 applications for a further 10 blocks, six of which were heard at Te Kuiti on 24 February 1950. Raglan County Council too, chose to test the legal route: in December 1949 it was reported that applications for receiverships on charging orders had been made for 47 blocks of Maori land in Raglan County.⁶⁵

The local body action described above took place amidst a growing groundswell of public agitation over the utilisation of Maori land. Fraser's reliance on Maori Affairs development to meet the 'problem' of unproductive land was ridiculed in an increasingly vituperative media. By September 1949 the utilisation of Maori land was brought into Parliament's debate over the budget, prompting a scathing editorial from the *Press*. The Maori Affairs Department, it was claimed, had its hands full, and 'If the Prime Minister's 'vast tracts' are not to wait indefinitely and dangerously long, under-producing or not producing at all, it is obvious that the European must be invited to partner the Maori in the tasks defined.'⁶⁶ The paper called for the end to the 'double standards' in rates collection from Maori land. In October the *New Zealand Herald* condemned the 'continuing government silence on the burning question of expiring Maori leases.' Maori land laws, it was claimed, had produced a stalemate. 'It is impossible for the Maori owners to become farmers and it is apparently impossible for European lessees to obtain a tenure which would assure the Maori owners of an income.'⁶⁷ A follow-up article two weeks later suggested that Pakeha farmers would not be satisfied with a renewable lease, and sought the freehold. Maori owners, it was claimed, had neither the skill nor experience to take over expiring leaseholds.⁶⁸ Reporting on the success of the Waitomo County Council's prosecution under Section 540/1931 the following week, the *New Zealand Herald* nonetheless criticised existing provisions for the subsequent lease of the land. 'The importance of the Maori vote is not a sufficient reason for the Government's failure to measure up to its responsibilities'.⁶⁹ The general election was six weeks away, and 'idle Maori land' had clearly become an election issue. In the event, the 13-year reign of the First Labour government came to an end with the election of National under the leadership of Sydney Holland on 30 November 1949.

5.1.2 National Government lobby

National's victory begat a fresh round of lobbying from both the Counties Association and from the individual King Country local authorities themselves. For the Counties Association, 'Maori Land Rates'

⁶⁴ Waitomo County Council clerk to clerk, Piako County Council, 16 November 1949, in above; DB:2260

⁶⁵ *Gisborne Herald*, 6 December 1949, in MA 1 405 20/1/1 part 6; Towers DB:855

⁶⁶ *The Press*, 1 September 1949, in MA W2490 48/2/3 part 1, ArchivesNZ Wgtn; Hearn DB:15/105

⁶⁷ *New Zealand Herald*, 1 October 1949, in above; Hearn DB:15/102

⁶⁸ *New Zealand Herald*, 11 October 1949, in above; Hearn DB:15/103

⁶⁹ *New Zealand Herald*, 17 October 1949, in above; Hearn DB:15/101

was one of eight issues on which submissions were made to Prime Minister Holland, Minister of Labour Sullivan and Minister of Maori Affairs – and Lands – Ernest B Corbett, on 22 February 1950. Walter Lee was once again part of the Counties Association delegation, where the 1948 remit with regards to the rating of Maori lands was re-presented. Once again, the problems of the King Country and North Auckland counties were said to hinge on development, but not that undertaken by the State:

To obtain such development under European occupation would of course, mean some security of tenure, and that was one of the factors that would have to be closely examined. A suitable tenure would have to be provided that would not deprive the Maori owner of his land but would be effective in enabling someone, either Maori or European, to undertake the development of the land on such condition as would ensure the occupant continuity of occupation.⁷⁰

There is no indication from the minutes of this meeting how the deputation was received by the new government. A response to a similar Municipal Association remit prepared for the new Minister at this time was very much in keeping, and indeed couched in the same language, as Fraser's response the year before, suggesting that Corbett had yet to stamp his mark on the incumbent administration. Once again, attention was drawn to the existing provisions for dealing with unoccupied or weed-infested lands, or the appointment of receivers in the case of unpaid charging orders.

How much further the element of compulsion in relation to the leasing of Maori land can be permitted to enter is a very serious matter and any extension of existing power would require to be very closely considered.

It is admitted that the present system for the levying and collection of rates on Maori land is not an ideal one, but it is difficult to see, because of the incidence of ownership in common as opposed to ownership in severalty that anything very much better can be devised, due regard being had to the necessity for keeping as much Maori lands as possible for occupation by the Maoris themselves. The Government is anxious that local authorities should not be kept out of their rates, but, at the same time, it is under an obligation to see that Maoris are not, save for most pressing reasons, deprived of opportunities to settle on their own land.⁷¹

The first point in Corbett's 'five-point policy' on Maori Affairs outlined to a Maori audience on the East Coast at this time was reportedly 'to continue existing safeguards against the compulsory acquisition of Maori land for servicemen's or general settlement'.⁷²

⁷⁰ 'NZ Counties Assn Inc Deputation to the Prime Minister...', 22 February 1950, MA 1 405 20/1/1 part 5; Towers DB:846

⁷¹ Minister Maori Affairs to Minister Internal Affairs, 16 February 1950, in above; Towers DB:851

⁷² Newspaper article, 27 February 1950, in 58/01/7 Maori Land Rating, Waitomo DC; DB:2371

Within Te Rohe Potae, local bodies moved quickly to gain the ear of the new Minister. Once again the initiative came from Broadfoot, now Cabinet member, in concert with Lee. In January 1950 the Waitomo County Council approached other local authorities in the region to collectively invite the new Minister of Maori Affairs to the district to discuss the pressing issues of the day, set out as:

1. Rating, Maori land.
2. Settlement and development of Maori land.
3. Expiry of leases of Maori land.⁷³

The invitation was accepted, and Corbett's entourage included his Under-Secretary Tipi Ropiha and the Director General of Lands. The visit began with a meeting with Maori on their marae at Te Kuiti on 13 March 1950. Individuals minuted as present included Hoeroa Marumaru, T Hetet, George Turner, N Moerua, Wiari Omipi and Whare Hotu. Otimi Kiore's name was followed by 'and Leaders and Elders of the Maniapoto Tribes'.⁷⁴ The meeting was chaired by EC Davis. The written submission of the Maniapoto Tribal Committee prepared the previous week and read out by Hetet constitutes the first record of Maori sentiment about the issue for two decades.

Maniapoto too, were frustrated by the lack of progress in the settlement of their lands, arguing that consolidation and development were key to a successful Maori land policy. They, too, pointed to 'involved ownership' which made it 'practically impossible for Maoris being desirous of settling on Maori land and becoming farmers, to do so.' This was particularly so, it was claimed, because Maori development schemes in the district were at a standstill. The Maori Affairs Department was accused of having no policy, of being unsympathetic, and bound up in so much red tape that they could not move. Development was described as being of paramount importance to the Maniapoto people and the tribal committee called for a progressive and active policy. It was useless to talk of 'Maoris using their own lands', for Maori did not have the necessary capital to do so. 'We want to develop and farm our lands, but we must have assistance, and the best and surest source should and must be through the Maori Land Development avenue.'⁷⁵

Corbett's minuted response was somewhat ambiguous. While admitting that '[m]ore progress could be adopted in regard to the development of their lands' he asserted that 'it could only be done with the co-operation of the Maori people themselves.' Development of all land in the country was of the very first

⁷³ See for example Waitomo County Council clerk to clerk Otorohanga Town Board, 19 January 1950, 58/01/2 Maori Land Vesting Orders, correspondence, Waitomo DC; DB:2262

⁷⁴ 'Notes of representations made to the Minister of Maori Affairs...', 13 March 1950, MA W2490 48/2/3 part 1; Hearn DB:15/98

⁷⁵ Ibid; Hearn DB:15/100

importance, the Minister went on, and if any person, Maori or Pakeha, could not cultivate their lands then it was the duty of the Government to see that those lands were cultivated and made productive. The assembly was then assured that insofar as their lands were concerned the ownership of such lands would not be interfered with while he was Minister of Maori Affairs.

The issue of rating was fourth on the agenda:

This is a very difficult and vexed problem, and it was generally conceded that lands in production and being capable of paying should pay rates. On the other hand any land not being in production or being unproductive, or not capable of being made productive, provision should be made for an amendment of the Rating Act to exempt such lands from the penal clauses of the Rating Act. Maoris generally were a 'poor people' where money is concerned. Although many hold or are owners of large areas of land, the greater majority of such owners were ordinary workingmen, and earning only ordinary wages. How can they be expected to pay rates out of their such ordinary wages?⁷⁶

To which the Minister responded:

That is was their duty if they owned land to endeavour to develop it to a stage where they could pay their rates and so enable those undeveloped areas to be made productive because it was from the production of the land that they got their rates. It was their task, assisted by the Development scheme officers, to make the land productive so that the rates could be paid.⁷⁷

The argument of George Turner, that Maori should not be asked to pay rates in view of their gifts of land for roads, railways and public domains, did not elicit a response from Corbett. The Minister was subsequently briefed by his Department about Maori resistance to rating, and the King Country was singled out as an area with 'large sections of the people who strongly resent the levying of rates on their lands':

This antipathy is due to several causes but one reason often advanced is that the Treaty of Waitangi exempted Maori land from such levies. The origin of this belief is hard to find as it has no foundation in fact whatsoever. If they rely on the Treaty of their rights of citizenship the Maori people must also be prepared to accept the responsibilities of citizenship.⁷⁸

⁷⁶ 'Notes of representations made to the Minister of Maori Affairs (Hon. E.B. Corbett) at Te Kuiti Marae, Te Kuiti, Monday 13th March, 1950', MA 1 414 20/1/49 ArchivesNZ Wgtn; DB:623

⁷⁷ Ibid

⁷⁸ 'Maori Rates' in MA 1 405 20/1/1 part 6, ArchivesNZ Wgtn; Towers DB:842

It is not known whether Ropiha was responsible for this advice, which seems curious given the fact that the previous Native Minister Fraser was all too aware of the Treaty-based arguments against enforcing rates liability. Other reasons offered in these ‘Notes sent to Minister’ of December 1950 included the plural ownership of land and the fact that much of it was unoccupied – and again the King Country was identified – with the comment that the recent legislation (a reference to the vesting provisions) ‘should help materially’ to overcome both issues. The advice also spoke of, and discounted, Maori scepticism of contributing rates when they saw nothing by way of service in return.

The meeting with the local bodies in the district took place two days later at the Waitomo County Council offices in Te Kuiti.⁷⁹ Chairmen Lee, Smith and Wallis for the respective counties of Waitomo, Kawhia and Otorohanga were bolstered by the presence of their councillors and that of Broadfoot MP. Although presented individually it is clear that the county councils’ submissions had been a collaborative effort and in fact a joint statement was also prepared for the Minister.⁸⁰ Both Lee and Wallis were complimentary about the work of the government land development schemes, both on Crown and Maori lands, and called for the expansion of such work. Both called for an end to restrictions on the sale of Maori land, with the proceeds put towards improving Maori housing. And all three counties argued that the most pressing problem facing the district was the large area of unproductive land, with the attendant issues of poor rates returns and noxious weeds. Waitomo drew attention to its debt of £215,000 on account of road development in the county; Kawhia to its high general rate of 1s 5½d; and Otorohanga to its employment of a fulltime noxious weeds inspector. The solution, it was argued collectively, was two-pronged: the development and permanent settlement of potentially productive farmlands through long-term leases on favourable terms, including compensation for improvements and rental based on the unimproved value; and ‘drastic’ amendments to legislation regarding the collection of rates from Maori land, by extending – as a first step – the grounds of vesting orders under Section 540/1931 to include the non-payment of rates.

While following the general argument and recommendations of its neighbours, the submission from Kawhia County Council also contained notable differences. The ‘good’ relationship between Maori and Pakeha that Lee attested to in respect of Waitomo County for instance, was markedly absent from Kawhia:

The large proportion of Maoris in the County of Kawhia and their unwillingness to co operate with the European settlers – a condition which is not surprising in view of the history of the King movement – have placed the European settlers in an

⁷⁹ ‘Notes of Representations made to Minister of Maori Affairs (Hon. E.B. Corbett) at the County Council Office, Te Kuiti on Wednesday 15 March, 1920’, MA 1 413 20/1/45; DB:606

⁸⁰ ‘Settlement, Development and Rating of Maori Land’, nd, 58/01/7 Maori Land Rating, Waitomo DC; DB:2372

unusually difficult situation. It can be resolved only by vigorous, determined and courageous action by the Central Government, to bring order and progress out of the present legal and administrative confusion.⁸¹

This ‘unwillingness to co-operate’ was presented by the chairman both in terms of the low rates return from Maori land – presented as 7.16 per cent over the last ten years – and the want of Maori farming. A quarter of the county’s 206,112 acres, described by the county chairman as the ‘best and easiest of the land in the County’, was still in Maori ownership, ‘but by far the greater proportion of it is very poorly farmed or not farmed at all.’ With regard to rating it was argued:

May we point out that the Central Government has a responsibility to decide once and for all whether or not Maoris are to pay rates as other citizens do. Should the Government decide that it is not incumbent on the Maori people to pay rates, then the matter becomes a national one, and the burden of Maori lands should be spread over the whole country by the full payment of rates out of the proceeds of national taxation.

Should the Government, on the other hand, uphold the principle that the Maoris should pay rates, then the legislative machinery for the collection of these rates must, at a very early date, be made simple and workable, or the principle is meaningless.⁸²

Corbett closed this meeting by telling the councillors that he was aware of the problem of undeveloped lands, and that with regard to the non-payment of Maori rates, something would be done immediately. He also promised to look into the issue of leasing. The notes of the meeting typed up a week afterwards were referred to the under secretary, with Corbett’s instruction to prepare a suitable response for the appropriate chairmen.

In fact, by June 1950 the lack of government response to the local body representations of March was a source of frustration for the Waitomo County Council. The debate over the non-payment of rates was further inflamed locally by Lee’s calling attention to the number of Maori students using the school bus. The chairman claimed that among the requests made to the Minister in March was that for an annual grant of £2500 for four years from the Department of Maori Affairs for the necessary improvement of the school bus routes to make up for the lost rates.⁸³ At the end of June the Minister, via Broadfoot, was once again pressed for a response to this and the wider matters raised in March. In his response the following

⁸¹ ‘County of Kawhia’, 233033 Maori Land, Otorohanga DC; DB:1732

⁸² Ibid; DB:1733

⁸³ ‘Replies Awaited: County Requests to Maori Minister’, *King Country Chronicle*, 27 June 1950, in MA 1 413 20/1/45, ArchivesNZ Wgtn; DB:609

month Corbett denied all knowledge of the request for a grant for the school bus routes and turned it down on the grounds that the Maori Affairs Vote for roading, as small as it was, was dedicated for opening areas of Maori land under development. With regard to the collection of rates and the utilisation of unoccupied Maori land, 'these things are not without their difficulties', the Minister wrote, for which the Department had not yet come up with the solution.⁸⁴

Lee continued to press for the school bus route grant as a means of keeping the rating issue alive with the Government. On 4 September 1950 he was back before Corbett and Ropiha in Wellington to argue the case that Maori Affairs were vitally interested given that over 30 per cent of the students using the particular routes needing improvement were Maori, and that independent Maori farmers by and large were not paying their rates. On this occasion Corbett repeated his inability to grant funds for the road improvements, but promised to take the matter up with the Works Department. On the wider issue of rates and land use he intimated that an amendment to Section 540/1931 was being prepared. Waitomo County Council and the other local bodies in the district were given the details of the proposed amendments at the end of October. 'The best and most practical method of overcoming these problems', a reference by the Minister to rating & noxious weeds, 'is by encouraging and facilitating the productive use of Maori land'.⁸⁵ To this end, the provisions of Section 540/1931 were to be extended to apply to lands for which rates had not been paid, or 'not being properly used', or which were not kept clear of noxious weeds. The leases granted by the Maori Trustee as a result of such orders would be for a 21-year term and include compensation to the lessee for 75 per cent of the improvements. These were indeed the main features of the legislation that was subsequently enacted as Part 3 of the Maori Purposes Act 1950. There is no indication that the Maniapoto Tribal Committee was similarly informed.

The news was well-received. Kawhia County Council's chairman was effusive in his approval of a measure he felt sure would be of 'tremendous benefit to the Maori people and to the country as a whole'.

Those of us who are in close contact with the problem, feel that there is much sentimental nonsense spoken and written on the subject, which tends to cloud the historical and economic facts and confuse the moral issues involved, to the obvious detriment of the Maori people themselves.⁸⁶

⁸⁴ Minister Maori Affairs to Broadfoot MP, 24 July 1950, in above; DB:610

⁸⁵ See for example Minister Maori Affairs to chairman Otorohanga County Council, 30 October 1950, MA 1 414 20/1/49; DB:624

⁸⁶ Kawhia County Council chairman to Minister Maori Affairs, 20 November 1950, 233033 Maori Land, Otorohanga DC: DB:1741

In congratulating the Minister, the chairman took the opportunity to press for more advantageous lease terms to 'ensure the success of the scheme'. Rather than fixed conditions with regard to the term of tenancy and compensation for improvements, he suggested that the onus to lease should be mandatory on the Maori Trustee, with the terms 'to adjust themselves by operation of the law of supply of and demand for the land.' He also called for the lessee's automatic right of renewal after the first 21-year term. This would give any lessee a 'worthwhile' period of time to recover the heavy cost of development.

With these two suggestions incorporated, I feel that the new legislation could go far towards bridging the gulf that has been growing between the two races as a result of the virtual exemption of the Maori people, in some areas at least, from the duties of citizenship.⁸⁷

Corbett's response came after the passage of the Maori Purposes Act 1950.

I was obliged, in considering the terms of the legislation, to advert to the interests of the Maori owners so far as that seemed to me to be possible. The announced policy of the Government in relation to Maori lands generally is that the freehold shall be preserved to the owners, and a necessary corollary of that proposition is that the Maori owners shall not be kept willy-nilly out of possession of their land for so long a period as would amount to a virtual denial of their rights as freeholder. A period of 42 years out of possession, without the right to resume, seemed to me to be going perilously close to a denial of those rights, and that is why the original idea about the right of resumption has been preserved in the legislation which has now been passed.⁸⁸

5.1.3 The vesting legislation

Part 3 of the Maori Purposes Act 1950 was entitled 'Provisions Relating to Unproductive Maori Land'. Section 34 provided that where the court was satisfied the land was unoccupied; or not kept properly cleared of noxious weeds; or that any rates had not been paid and the amount had been charged upon the land; or that the owners had neglected to farm or manage the land diligently and that the land was not being used to its best advantage in the interests of the owners and in the public interest; or that any beneficial owner could not be found, the Court could make an order appointing the Maori Trustee as agent for the owner or owners of the land, for the purpose of alienation. Such orders could also be made on hearing applications for charging orders for unpaid rates, or for the appointment of a receiver to enforce such charges (Section 34(2-3)). Orders could be cancelled, but a cancellation would not invalidate alienations already executed (Section 35). No order had any force until it had been approved by the Minister of Maori Affairs (Section 36). Land capable of being farmed was to be alienated by way of lease,

⁸⁷ Ibid; DB:1742

⁸⁸ Minister of Maori Affairs to chairman Kawhia County Council, 21 December 1950, in above; DB:1743

rather than sale (Section 39(1)), and every lease or sale was to be by public tender in the first instance, on terms and conditions the Maori Trustee thought fit (Section 40(1)). The Maori Trustee could call for applications by the owners for lease of the land at the upset rental, the lowest acceptable rent. Every farm lease was to be for a term of 21 years, with provision made for an improvement fund.

Three years later these provisions were refined and replaced by Part 25 of the Maori Affairs Act 1953. The grounds of vesting were retained without change in Section 387 of the new Act, and a number of new requirements were added which reflected existing practice. No order could be made unless the Court was satisfied the land was capable by ordinary and reasonable standards of being used for agricultural, pastoral or horticultural purposes. While this could be interpreted as a protective mechanism for Maori landowners, it is more likely to have been inspired by Treasury parsimony over expenditure incurred by the Maori Trustee in the unsuccessful bid to lease marginal lands.⁸⁹ The Maori Trustee could not sell or lease any such land if a suitable offer had been made by a Maori. Again, 'suitable' entailed a consideration of capital and experience with economic farming in mind and 'Maori' was not confined to the owners of the land. Importantly, the restriction against the sale of farm land was removed, with the Maori Trustee empowered to sell if efforts to lease had failed (Section 392). Provisions regarding the leaseholds were also tweaked, giving the lessee the right to a further 21-year term if the Maori Trustee did not give notice at least 12 months before expiry of an intention to resume (Section 403). The Maori Trustee was not bound to observe the owners' wishes with regard to resumption. Lastly, the 1953 amendment provided that the Maori Trustee should not alienate any land, by sale or lease, if in his opinion such alienation would result in an undue aggregation of farm land (Section 404).

The new legislation was at once an extension of, and a dire departure from, existing provisions. In August 1950 Chief Judge Morrison had given a ruling regarding the use and intent of Section 540/1931. On that occasion a private application had been made by a farmer who sought to extend his farming operations to the unoccupied Maori land next door. The application was turned down on the grounds that in making an order under Section 540/1931 the Court had to be satisfied as to *all* of the conditions set out in the legislation, that is, that the land was unleased *and* unoccupied *and* not kept properly cleared of noxious weeds *and* that the Court considered an alienation to be in the interests of the owners or of the public. The fact that the land was virtually free of noxious weeds meant that these conditions could not be met. In his decision Chief Judge Morrison had remarked: 'The effect of an order under this section is to take away from the owners their right to deal with or dispose of their land as they wish, and this right should not be

⁸⁹ See for example Secretary Treasury to Secretary Maori Affairs, 21 September 1956, AAMK 869 W3074/394e part 3 12/0, ArchivesNZ Wgtn; DB:1049

taken away unless the Court is satisfied that the grounds upon which an order may be made are clearly shown to exist. *The section is not intended to be used mainly as an easy method of acquiring Maori land.*⁹⁰ The Chief Judge had also remarked that in terms of noxious weeds, the evidence must show that there was a substantial quantity on the land or that it constituted a real danger to adjoining land or that if there was not at present a substantial quantity it was likely to increase. Section 34/1950 on the other hand required that only one ground be met before an order could be made appointing the Maori Trustee agent for the owners for the purpose of alienation. Either the land was unoccupied *or* not kept clear of noxious weeds *or* the beneficial owners could not be found. The grounds that owners had neglected to farm or manage the land diligently or had failed to pay rates which were charged against the land were innovations ensuring the success of almost every application. The Act came into effect in February 1951 and within six weeks Raglan County Council was in court to prosecute 37 applications under Section 34/1950.

⁹⁰ Author's emphasis. Decision on Taupiri Lot 474C2(parts), 28 August 1950, Mercer MB 32/15

Chapter 6

Local Body Prosecution, 1950s

The following chapter sets out the course and outcome of applications prosecuted by local government under Part 3 of the Maori Purposes Act 1950 and Part 25 of the Maori Affairs Act 1953 in the decade of the 1950s. The legislation gave local bodies in the King Country the means of solving their ‘Maori land problem’ once and for all, by transferring the asset of land into the private hands of those with the capital to create wealth from it. The moral justification for doing so – the right of use or improvement – is as old as colonisation itself. As Judge Prichard explained to the hapless owners in his court: ‘Well, the County is not wanting to steal land. What the County says is ‘Use it, and if you will develop it then good luck to you’ and if you won’t then it will be handed to somebody else’.¹ It is no coincidence that this last, large-scale ‘compulsory dispossession’ of Maori land in the twentieth century was principally invoked in Te Rohe Potae, where political resistance to rating was strongest, and where the marginalisation of tangata whenua left them vulnerable to the new incursions on their title.

The county councils of Raglan, Kawhia and Waitomo were the most active prosecutors of the legislation and the location of county and government records has meant that their activities can be set down in some detail. A discussion of these three counties forms the substance of the following narrative. Schedules of lands that became subject to application have also been compiled (see Appendix 2). These schedules were prepared primarily from Otorohanga and Mercer minutes books between 1949 and 1957, and are listed alphabetically by county. It has become evident from research with other records that the minutes of the Court cannot on their own be relied on for a comprehensive tally of the blocks affected by application. It is highly probable therefore that in the case of Otorohanga, Taumarunui and Waipa County Councils, for which county records could not be located, the impact of the legislation was considerably wider than the blocks shown in the schedule. The extent to which Clifton County utilised the legislation in the southern end of the Inquiry District has not been the subject of research in the time available, but it is thought to have been minimal. Of the three statements of claims directed at the loss of land for unpaid rates, only

¹ ‘Maori Land Court Sitting at Kawhia’, 9 March 1954, 5/9 Administration. Application for land under s.34 Maori Purposes Act, Waitomo DC; DB:2599

that of Heather Thomson regarding Manuaitu B9 (Wai 2273) is listed in the schedules. The lack of information regarding the other lands under claim should not be taken to mean that they were not subject to application.

Most of the prosecution occurred between 1951 and 1954, with special court sittings arranged to deal solely with the ‘bombardment’ of applications from the King Country county councils. Over 340 blocks of Maori land were targeted, more than 41,300 acres of land. Orders appointing the Maori Trustee for the purposes of alienation were made over at least 200 of these blocks, comprising over 28,660 acres. It is important to see this in the context of ongoing land alienation: according to the Land Alienation Project on the eve of the legislation 402,253 acres remained in Maori ownership, less than 20 per cent of Te Rohe Potae. Anecdotal evidence in court suggests that the areas targeted by the local bodies were often the best, economically speaking, of what was left (see notes in Appendix 2).

Not every order resulted in alienation, but it is also equally true that an undisclosed number of alienations occurred as the result of threatened prosecution. It is beyond the scope of this report to quantify how much of the land subject to order resulted in permanent alienation, although a cursory attempt to trace changing land tenure within Kawhia County points to significant issues. Maori Trustee administration of the vested lands is the subject of Heather Bassett’s research project, which may provide more conclusive information regarding both the quantity of subsequent alienation, and the quality of trustee control.

6.1 Raglan County Council

Raglan County Council was the first, and by far the most active user of the legislation: the county was in court within weeks of Section 34/1950 becoming operative and it continued to challenge and exert control over the bureaucratic process at every step of the way. With the weight of long experience and long settlement behind it, the council was well-poised to do so. Having already contributed to the successful transfer of 95 per cent of the county out of Maori hands, it is difficult to account for the zeal with which Raglan County Council pursued the remaining acres in Maori ownership. It seems to have been driven by the long-standing anathema of ‘special treatment’ for Maori in terms of rates collection, even though the lack of such revenue by 1950 did not materially affect county operations. Chairman of a county in which the housing and living conditions of its Maori constituency were said to be the poorest in the nation, LC Logan was one of the most ruthless advocates of the contention that if Maori did not have the means to develop their marginal lands, and it was obvious they did not, then these lands should be handed over to those who did. His conscience was untroubled by this stance, for as he declared to the Minister of Maori

Affairs in 1954, ‘Raglan County Council has no desire to see the Maori lose his land so long as he can develop and farm it and stand on his own feet with the rest of New Zealand.’²

6.1.1 Applications under Section 540/1931

In November 1950 two Section 540/1931 applications by the Raglan County Council were prosecuted before Chief Judge Morrison.³ Although the first of these concerned land outside the Inquiry District, the court’s deliberations are instructive. Karamu Parish allotment 201A2C of 52 acres had 12 owners. The land was occupied by a Pakeha – William Rothwell – who had been grazing the land on an informal basis for the past six years. Rothwell, a local on familiar terms with the Maori owners, had cleared the land of weeds and paid an annual rental to the owner with whom he had a verbal agreement. Rothwell was listed in the county rates book as the occupier of the block, but had only received a demand for rates in the last year – which he had paid. He also claimed to have paid the back rates on the block. Rothwell wanted to secure the arrangement and in court he claimed that his intention to make application on his own behalf had been pre-empted by the council’s action. The county’s solicitor submitted that ‘it would be a tragedy if land went back into noxious weeds before we could take any action’.⁴

The application was opposed by Rore Erueti. He explained that the main owner of the block was a widow who wished to build a new home on the land, her existing one having been condemned. He claimed that the owners were happy with the status quo – the informal lease to Rothwell – and that the fact that ‘there is nothing wrong with the land’ meant that it did not fall within the terms of the Act. In the result, the court agreed with him and the application was dismissed.

The second application concerned Manuaitu B7, just over 80 acres vested in 153 individuals. The county rates clerk began by setting out the particulars of the unpaid charging order of 1938 together with the last two years of arrears – together almost £20. The county inspector then read his inspection report. He claimed that the land was unoccupied and unfarmed, that the 20 acres of grass was scattered and that the few sheep in evidence were strays from the neighbouring farms. Nor was there sign ‘of anyone having attempted to cut or spray noxious weeds – for quite a number of years.’⁵

There was a strong owner presence in court and most of them opposed the application. Haukoti Wikiriwhi, speaking on behalf of all the owners, spoke of a meeting of owners recently held at

² ‘Representations to the Minister of Maori Affairs...’, 7 April 1954, AAMK 869 W3074 62/1 part 2; Hearn DB: 2/246

³ Mercer MB 32/71

⁴ Ibid

⁵ Ibid, fol 75

Motakotako, which had resolved to split the land between two adjoining farmers – one Pakeha and other Maori. In exchange for clearing the land of noxious weeds and paying the rates, these two farmers would have the use of the land rent-free for a period of six years, with the view to renewing the arrangement depending on how well they had looked after the land. ‘We are asking no rent as we expect them to clear the weeds and improve the land – we do not agree to the leasing being in the hands of the Maori Trustee’.⁶ The Maori farmer in question also appeared in support of the owners’ proposals and signalled his willingness to pay future rates. Reihana Rangiawha also alluded to the two roads traversing the block for which land had been taken without compensation: ‘it is not fair to turn round now & ask for rates.’ He also disputed the description of stock on the land, claiming that in addition to a lot more sheep, there were also horses and cattle on the land, the latter belonging ‘to everyone’. Under questioning from the county solicitor, Rangiawha said he would be happy to take a 21-year lease from the Maori Land Board, not the Maori Trustee. The Maori Affairs field supervisor then added his opinion that a six-year lease was too short to give the lessee an inducement to improve the land. The last witness was part-owner Te Oko Paeone Te Whareroa who asked the court, ‘in disposing of this block’, to have regard for his four sons who had served overseas, not one of them having been settled under the returned soldiers’ scheme.

In the result, the Court found that the grounds of the application had been met, and in particular that the fact that neighbouring stock were running on the land did not constitute occupation by any person. Chief Judge Morison considered that the owners’ own leasing proposals were unsatisfactory and not likely to result in the land being cleared properly of noxious weeds. Rather, ‘I think that it is in the real interests of the owners that the land should be in the hands of the Maori Trustee for leasing.’⁷ The resulting order, made over the objections of the owners themselves, was a portent of much worse to come.

6.1.2 Applications under Part 3/1950

Even as the above Section 540 applications were prosecuted, Raglan County Council was preparing for a much more concerted attack under the provisions relating to unproductive Maori land in Part 3 of the recently passed Maori Purposes Act 1950. The Act came into effect in February 1951 and 37 applications from the council were set down for hearing in Ngaruawahia on 11 March. The Minister of Maori Affairs himself was in town the day before the hearing. He met with a deputation of Maori landowners led by M Winiata expressing concern in the Waikato-Maniapoto district about Section 34 and whether it would result in ‘the worsening of their position in regard to possession of land.’⁸ The Minister was asked for an assurance that he would safeguard the fee simple in regard to Maori title, and to have the proceedings

⁶ Ibid, fol 77

⁷ Ibid, fol 80

⁸ ‘Notes of Deputation’, 12 March 1951, AAMK 869 W3074/387c 12/0 part 1, ArchivesNZ Wgtn; DB:987

adjourned to give the people time to organise themselves. Winiata informed Corbett of their wish to establish representative committees to deal with the idle lands. In response, the deputation was told that the issue of rates was incidental to the larger problem of utilising land. Corbett claimed that the 21-year term would protect the fee simple, and that the 75 per cent compensation arrangement was fair and reasonable. He supported the establishment of committees for 'education purposes' in view of the fact that 'it was quite obvious that there were many Maoris who did not understand and thought that this was the first step to take away their land.'⁹ When pressed by Winiata to have these committees recognised for liaison purposes, the Minister agreed that 'that would be in order.' He refused the request to interfere with the court proceedings.

Winiata repeated his request for an adjournment to the court when it opened for business the next morning. Again he spoke of a representative committee which would work directly with the Raglan County Council to arrange the settlement and development of Maori land. The request was declined. The record of proceedings is limited to the official court minutes. Presided over by Judge Beechey, the inaugural action under the new provisions began with the county's rationale for doing so, minuted as £3500 of rates uncollected annually from Maori lands; the county's desire to have land 'settled' (with the assurance that it would provide access); and the 'benefit to Maori owners.'¹⁰

The applications were heard over two days, 21 the first day and 17 the next. The cracking pace is only partly accounted for by the fact that a number of adjoining blocks were treated together. In only 12 of the 37 cases was there any owner or occupier presence in court, the overwhelming majority of orders occurring in the absence of the affected landowners. Two applications were adjourned on the grounds of insufficient notice, but the court had no qualms about making orders in the absence of owners who the county testified had been notified, even when only a fraction of those entitled had been located. The size of the blocks under application varied: 9 were less than 50 acres; 11 between 50-100 acres; and 11 between 100-500 acres. Also targeted were three substantial Te Akau holdings, two of them 906 acres each. The smallest was an almost 5-acre house plot at Onewhero.

The procedure for each application followed a set pattern. The county was represented by counsel from Tompkins & Wake. Bradley, the county rates clerk gave particulars about notice to the owners and the status of rates charged against each block, where applicable. Passau, the county noxious weeds inspector then spoke to his report prepared for the occasion, in terms of the condition of each block's vegetation, topography, soil type, road access and existing occupation, based on his visit to the block in question. He

⁹ Ibid

¹⁰ Mercer MB 32/129

also gave his opinion as to how the land could best be utilised and informed the court of farmer interest in leasing. Where owners were present, they were heard last. The cost of each application and order was to be borne by the landowners. The 20 shilling fee was to be paid by the applicant and then reimbursed by the Maori Trustee from revenue from the land.¹¹ By June this fee had risen to £2 1s per case, ‘to be paid by the Maori Trustee from first proceeds of alienation of land’.¹²

In addition to the issues of notice and owner absence referred to above, the hearing of these first applications contain the elements of many other issues pertaining to the 1950s legislation. Subsistence farming did not meet the standard set by the county or the court. For the Maori owners, anything less than full-scale farming on Pakeha lines rendered the land vulnerable to order. The absence of buildings, fences or stock was evidence of non-occupation. The presence of noxious weeds, particularly on lands that had once been farmed, was grounds of itself. Although not deemed noxious weeds, the presence of manuka, fern and ‘native grasses’ on many of the blocks was nonetheless used as evidence of neglect to farm or manage the land diligently. When all else failed, the county council could resort to unpaid charging orders dating back to 1938, together with the non-payment of current rates.

Orders based on the grounds of ‘neglect to farm’ were made in the knowledge of the barriers facing the Maori owners to do so. At least eight blocks of land were without road access and 19 of the blocks were deemed to be uneconomic to farm on their own, the county inspector suggesting in many cases that smaller areas be taken over by adjoining farmers. In a number of cases these lands were grazed by the owners’ stock, but ‘proper farming’ was stymied by the lack of capital. In the minuted words of one owner: ‘Agree land should be farmed but have no money to do it.’¹³ By virtue of the ‘neglect to farm’ grounds, orders could now be made for lands on which the Maori owners were actually living. Part Whangape 58B2B for example, was a 304-acre block on which the extended Howard family lived. The land was described as being ‘ideal sheep country’, with 25 acres in grass, 120 acres in manuka and 160 acres in short fern and scrub. In addition to their three homes, the occupier/owners were said to be milking 6-10 cows and running 20 head of stock. Passau reported that the land was ‘not being seriously farmed’ and would require capital to break it in. Jimmy Howard was in court to defend his family’s title, his sentiments recorded as ‘would like to continue to live on land and have an area of 40 acres or so for farming where he has cut tea tree at western end of block.’¹⁴ The resulting order stipulated that the ‘consideration be given to retention of cottages where owners live and provision of area for Jimmy

¹¹ Mercer MB 32/147

¹² Mercer MB 32/216

¹³ H Wikiriwhi, Mercer MB 32/131

¹⁴ J Howard, Mercer MB 32/140

Howard or his family.’¹⁵ Similar orders were made for two other blocks on which the owners were living.¹⁶

Of the 37 applications, in only two cases were some of owners said to consent to the vesting, one for lease and the other for sale. In the case of a 906-acre Te Akau block, on hearing the owners’ wish to farm an area representing their family’s interest in the block, the resulting order stated that the ‘owners may make representation to Maori Trustee for an area for them’.¹⁷ The objection of one owner to the alienation of his land at Whangape ‘because they have no other land & money return to the owners is about 2/1 each’ was simply overruled by the court.¹⁸ In many cases the interest of neighbouring farmers to lease the lands under application was given by the county by way of support. The fact that some of these were Maori farmers was used to good effect, although a lease to these named individuals was not stipulated as a condition of the resulting orders.

The first use of the new legislation resulted in 32 vesting orders for over 5555 acres of land. Four applications were adjourned, and one withdrawn. In Auckland three weeks later, Winiata again took the opportunity to express his distress with Section 34 in person to the Minister of Maori Affairs: ‘there was a clash between the Maori point of view regarding their land and the pakeha point of view regarding production. Some Maoris were afraid of losing their land.’ Corbett was unconvinced:

He did not agree that there was any justification for the land to be idle – it must be used. That was the best insurance the Maori people had to retain the right to their land. *But No.1 in the Policy of the National Party was the preservation of the fee simple of the Maori land, and that would not be violated.*¹⁹ [Author’s emphasis]

Nor did the pressure from Raglan County Council relent once the orders had been made, the constant inquiries causing Robertson, the Auckland registrar, to write to the Maori Trustee one month later for instructions about the orders he claimed were ‘causing me considerable embarrassment’.²⁰ A week later the council prodded the Minister of Maori Affairs directly about action over the orders, calling his attention to the expenditure on noxious weeds eradication: ‘My council trusts there will not be any procrastination in dealing with Maori Lands which have been dealt with by the Maori Land Court...’²¹ To

¹⁵ *ibid*

¹⁶ Whaingaroa SD Blk VII Sec 4B and 4D, see appendix 2

¹⁷ Mercer MB 32/134

¹⁸ Mercer MB 32/148

¹⁹ ‘Notes of Interview’, 10 April 1951, AAMK 869 W3074/387c 12/0 part 1; DB:989

²⁰ In AAMK 869 W3074 394c 12/0 part 1, not in DB

²¹ In AAMK 869 W3074/394d 12/0 part 2, not in DB

press home the point, the Minister of Agriculture was informed simultaneously that the council would require an additional £500 in light of the delay from the Maori Trustee.

The scale of the county's opening gambit had in fact raised eyebrows in Wellington: the Under-Secretary for Maori Affairs Tipi Ropiha – also the Maori Trustee – expressed himself as perturbed by the number of applications already prosecuted and the news of more to come. Robertson was sent guidelines of how to proceed, with the Maori Trustee emphasising that the orders required confirmation from the Minister, not the subsequent alienation. Interestingly, the Minister's power of veto was only expected to apply in cases where the land was considered to be more suitable to departmental development. Land capable of being profitably used for farming was to be leased, not sold; owners were to be invited to apply in the first instance in all cases, by public advertisement, although a period of two weeks, rather than the statutory six weeks was deemed sufficient. The ability, farming experience and financial circumstances were to be taken into account when considering an owner's application: 'A reasonably high standard is to be set in applying these rules because the statute is designed to see that the land is brought into proper production and the provisions are not to be defeated, nor the interests of the owner adversely affected, by letting into possession a person who is likely to be an indifferent tenant or who is a man of straw'.²²

6.1.3 June 1950 prosecution

Raglan County Council was back in court before Judge Beechey three months later. In addition to the four adjourned cases from March a further 23 blocks of Maori land had been targeted for application, including those at Moerangi and Manuaitu. The largest block on this occasion was 462 acres of forested land at Moerangi. Five of the applications were for areas less than 10 acres, including a 5-acre reserve.²³

The proceedings continued in a similar vein as March: where lands were unfenced, unstocked, unoccupied and showed all the traits of reverted farmland such as second-growth manuka and noxious weed infestation, orders ensued automatically. Six vesting orders were made on this basis. Once again, in at least two cases the court made vesting orders for lands that were occupied, but not 'farmed' in the Pakeha sense of the word. The humble circumstances of the resident owners: 'Terewai has just a ponga whare. Nita's place is of corrugated iron – one big room' was used by the county inspector – and accepted by the Court – to undermine these families' claim to their lands. In the case of Manuaitu B6 the county persisted in its application even though the resident owner paid rates, presumably on the basis that his limited use of the 237 acres did not constitute due diligence in managing the land. Where a smaller area was involved, such as the 5-acre house plot at Onewhero, the county conceded that the existing Maori

²² Circular in AAMK 869 W3074/387c 12/0 part 1; DB:988

²³ 6-7 June 1951, Mercer MB 32/200-218

occupier would be 'a hardship to shift'. It had also made the application in the knowledge that the land was occupied by another individual from Pukekawa and in the event the matter was adjourned to enable rates collection in the ordinary way, the court minuting 'Land appears to be occupied to advantage if not to full advantage'.²⁴ This was not the only instance the county was aware of occupation by those other than the owners, and from whom rates might have been pursued. Application was made for Opuatia 11A2B2, just over 19 acres, on the basis of an unpaid charging order and unpaid rates. Part of the land was being used as a market garden, and in court the county inspector stated that 5-6 acres was being used by the adjoining Pakeha landowner. One of the many owners of the block was in court that day and expressed his desire to lease the land. The order was made.²⁵ Two other applications were withdrawn on the basis that the Pakeha grazing stock on the land on an informal basis had paid the rates.

One striking feature of the proceedings was the limited extent of notice owners received of the legal action. Notice was sent where the addresses of owners were known, generally as a result of the title searches from Maori Land Court records. In the majority of applications the number of owners located was a small fraction of the total number of owners: only 8 of the 41 owners of Manuaitu 11D2; 14 of the 100 owners of Manuaitu B10; 3 of the 36 owners of Moerangi B8B. In court the number of notices returned through the Dead Letter Office was used as an indication of owner notification: the fewer returned, the more it was assumed had been received. In five cases none of the owners could be located and therefore received no notice. In one such case where the land was occupied and the rates paid, the application was adjourned to enable the owners to be notified. In the other four cases, vesting orders were made regardless. Overall the participation of owners at this hearing was minimal. In one case an order was made after a part-owner expressed his desire to farm the land. Most of the county applications however proceeded without any owner input at all. On the other hand, included in the June hearing was an application of an owner to the cancellation of an earlier Section 540 order over Whaanga 1C2B1. In court K Riki stated that he had paid all rates, chopped five acres of manuka, grassed two acres and cleared the noxious weeds. Riki was intending to milk a small herd. He asked that the bush at the back be left intact for timber. The application was adjourned, 'inspection to be made'.²⁶

The June hearing resulted in a further ten orders, amounting to 1389 acres of Maori land. The fact that a number of the blocks were forested presented the first hiccup to the otherwise straightforward proceedings. Unlike reverted farmland or undeveloped scrubland, the philosophical basis for taking 'unused' Maori land began to wear thin with forested lands. In the 1950s Pakeha generally still regarded

²⁴ Mercer MB 32/214

²⁵ Mercer MB 32/210

²⁶ Mercer MB 32/209

such forests as a resource to be extracted, reflected in the description of such tracts as ‘millable timber’. The revenue from timber rights would enable the payment of rates, while the assumed benefits of transforming indigenous forest cover into more grassed farmland was not seriously challenged at this time. But as such, these forested lands hardly fell into the ‘unproductive’ category to which the whole thrust of the 1950s legislation was directed. To deny the Maori owners control of the economic benefit of such extraction was stepping beyond the intent and scope of the law. The first application where this was of issue was Moerangi 3B2C2, 462 acres described by the county inspector as ‘wholly in millable bush’. The application was adjourned to give the owners time to ‘make arrangements’, presumably – given Passau’s assessment – to have it milled.²⁷ An application had also been made for Manuaitu B11C, almost 300 acres of ‘virgin bush’/‘good millable timber’, despite the fact that only one year’s rates were owing, the Maori ratepayer having died recently. An order was not made on this occasion and the application for another forested block in the vicinity was also adjourned ‘pending enquiries as to disposal of timber and use of land.’²⁸ Some of these applications were reconsidered in March 1953, where it is evident the Court was at least conscious of the environmental value of leaving the forest intact. The resulting decisions however were conflicting. A vesting order was subsequently made for Manuaitu 11D2, a 234-acre forested block on which there was stated to be ‘no occupation other than squatters who may have some title’. Paradoxically, the order bore the note ‘Land bush clad – M.T. should examine with idea of making the area or part of it a bush reserve.’²⁹ With regard to Moerangi 3B2C2 on the other hand, the minutes record ‘Large area of bush should be left in meantime’, and the court’s opinion that ‘Vesting order not suitable’. Again, paradoxically, the minutes also record the decision to adjourn the application to enable the registrar to consider including the area in the Kawhia Development Scheme, which boded ill for the preservation of the forest. In December 1953, the council consented to the dismissal of Manuaitu B11C ‘& other Manuaitu Blocks’ on the basis that the Maori Trustee was unable to lease the land.³⁰

The targeting of forested lands provoked an immediate protest from Te Puea Herangi. Writing to Ropiha at the close of the second hearing, Herangi expressed her opposition to the proceedings, and her people’s preference to have their own committees organise development of the lands: ‘We have strong Committees that could do this work.’³¹ Dead set against the sale of the lands, Te Puea also expressed anger about the taking of standing timber which she had intended to use for the completion of meeting houses throughout the district. In response Herangi was told that the use of the vested lands would be considered by the

²⁷ Mercer MB 32/203

²⁸ Manuaitu 11D2, fol 208

²⁹ Mercer MB 33/114

³⁰ Mercer MB 33/233

³¹ T Herangi to T Ropiha, 7 June 1951, AAMK 869 W3074/394d 12/0 part 2; DB:1005

Department, 'and their suitability generally for Maori settlement', together with the means of doing so. Once these reports had been prepared, the Under-Secretary promised to discuss the outcome with the advisory committee at Ngaruawahia in person. With regard to the timber, she was told to obtain the agreement of all the owners: '... perhaps the members of the Committee will also bring influence to bear so that something along the lines desired by you can be done.'³² The loss of control over timbered lands was a point of grievance in the groundswell of Maori organised protest against the legislation in 1958, discussed below at (6.5). Maori Affairs, for its part, continued to deny that the owners had anything less than full control over the *disposal* of their forests.³³

Ropiha kept his promise to visit and although the records of this trip have not been found, one result of his discussions with the Waikato advisory committee appears to have been a renewed pledge to consider Departmental development of the vested lands for Maori settlers.³⁴ Such a course however took time and in the meantime the Minister's confirmation of the orders was deferred. By October 1951 Raglan County Council's patience was stretched thin. Anticipating a council deputation to Wellington, on 30 October Robertson suggested that the Department proceed with dealing in terms of the Act with those 'uneconomic' blocks – isolated or without access – and considered by staff to be unsuitable for development. Winiata, for the advisory committee, was to be sent the names of the owners of these blocks and informed that applications from these owners would be invited once valuations were available. The outcome was that by 12 November 1951, 14 vesting orders for some 2000 acres were forwarded to the Minister of Maori Affairs for his signature for alienation by lease or sale. A further 25 blocks had been identified as suitable for development under Part I/1936, and the Minister was advised to withhold his consent in the meantime.³⁵ Having done so, the registrar was told to investigate development proposals for the blocks as soon as possible.³⁶

Valuations and assessments for the compensation of improvements for 21 blocks (including those vested in the Maori Trustee under Section 540/1931) were completed the week before Christmas. Robertson's reassurance that he would consult 'Mr. Winiata's committee' when the leases were next offered to the owners suggests that the under secretary's direction that this should be done while the valuations were taking place had not occurred.³⁷ In April 1952 Ropiha inquired whether this had in fact been done and

³² Under-Secretary Maori Affairs to Te Puea, 21 June 1951, in above; DB:1006

³³ Acting Minister Maori Affairs to Puke, 1 October 1958, AAMK 869 W3074 395d 12/0/9; DB:1087-88

³⁴ Auckland registrar to Under-Secretary Maori Affairs, 30 October 1951, AAMK 869 W3074/394d 12/0 part 2; DB:1008

³⁵ Under-Secretary Maori Affairs to Minister Maori Affairs, 12 November 1951, in above; DB:1010-1011

³⁶ Under-Secretary & Maori Trustee to Auckland registrar, 15 November 1951, in above; DB:1012

³⁷ Auckland registrar to Maori Trustee, 18 December 1951, AAMK 869 W3074/387c 12/0 part 1; DB:991

repeated the direction that the ‘Owners’ Committee’ be supplied with the properties to be offered for lease to the owners on an ongoing basis.³⁸

In February 1952 Raglan County Council again inquired about progress. The response from the registrar, that after considerable work the lands were ready to offer the owners within the fortnight, prompted another deputation to the Minister of Maori Affairs. According to the legal opinion prepared for the council, the Maori Trustee was under no obligation to do so, and in the second week of March Chairperson Logan and Clerk Brownlee-Smith met with Corbett in Wellington to insist that the lands be offered for lease by public tender.³⁹ The pair claimed that the Maori Trustee’s administration was defeating the purpose of the Act. Several veiled criticisms were made: about the registrar’s lack of cooperation; about Maori families living on land without farming it productively; about Pakeha no longer being able to negotiate directly with Maori for leases; and about Maori taking up the blocks which had been vested, all delivered in a way that was less than straightforward. Take, for example, Logan’s comments on Maori leasing their land, bearing in mind what had prompted the deputation:

It was not the desire of the Council to see the land leased to a European if there was a Maori owner willing and reasonably efficient to farm it. The correct thing would be to let that owner farm it. However, the general observation over a very long period of years was that – with the exception of a few – the Maoris in general did not appear as if they were ready and willing efficiently, to farm their own lands.⁴⁰

Corbett’s response on the other hand was at least refreshingly direct:

[The Act] was brought in for two major reasons, one of which was the absolute necessity of having the source of the country’s welfare flowing – production from the land, and also that the Maori would become land conscious, and Mr. Blane’s instructions, when he prepared the legislation, was to give the Maori the spur to farm his own land. They had to remember the very complex nature of land tenures had been as great a factor as any in preventing the Maori people from farming their own lands. At a conference held recently mention had been made of the fact that, in some cases, the interest of a beneficial owner was so infinitesimal, that it would take 40 years before he would be entitled to one penny. Nevertheless, he was an owner. It could therefore be appreciated what the difficulties were. No Maori owner could feel secure to go ahead and farm the land. The moment there was an equity there would be difficulties with the other owners. The desire of the Act was to cut across that complexity and give either a Maori a secure tenure of 21 years,

³⁸ Maori Trustee to Auckland district officer, 3 April 1952, AAMK 869 W3074/394d 12/0 part 2; DB:1018

³⁹ Tompkins & Wake to clerk, Raglan County Council, 11 May 1951, AAMK 869 W3074/387c 12/0 part 1; DB:996-998

⁴⁰ ‘Notes of Interview’, 2 April 1952, AAMK 869 W3074/394d 12/0 part 2; DB:1016

or, if that was not desired, then an European. The legislation was drafted to give the Maori who was already an owner – if he was of the calibre likely to make a go of it – priority to farm the area. Failing that the land would then be leased to an eligible European. Regarding Maori Land development, the Minister said he considered that the Maori Affairs Department was doing work comparable with the Lands Department. Private individuals who were members of the Land Settlement Board making frequent visits throughout the country had given him very good reports of the work they had seen.⁴¹

One of the issues raised in the legal opinion produced by the council was whether the Maori Trustee was justified in having succession orders made before dealing with the vested lands. Asked to comment on the opinion, the Auckland registrar replied that this had been done in one case to enable a prospective successor to qualify as an owner in order to make an offer of lease: ‘The Raglan County Council may have heard of this and have incorrectly drawn the conclusion that the Maori Trustee intends to bring the title up to date in all cases.’ This however had been an isolated case. Robertson continued: ‘In other cases, too, we have had tentative enquiries from people who claim they are entitled to become owners by succession. The view taken here is that prospective owners such as these people are not entitled to make application in terms of Section 43/1950.’⁴²

By May 1952, of the 11 blocks offered to the owners for lease, only one – Te Akau D16B2B2 of 906 acres – had been taken up. The re-advertisement of these blocks for public tender prompted an encouraged Raglan County Council to update the Counties Association on the local impact of the legislation, and to urge the executive to ask ‘all counties who have a Maori land problem not only to apply for Orders vesting Maori land in the Maori Trustee but also to prepare farm reports and give active assistance to any persons interested in leasing the land.’⁴³ According to the council, as a result of the Act the rates collection from Maori land had more than doubled in two years, from £1374 in 1949/50 to £3050 in the year just ended, which represented an unprecedented 59 per cent return of rates levied. Borrowing from Corbett’s rhetoric, an additional spin-off attributed to ‘Council’s interest’ was that ‘Maoris have themselves become more land conscious’ – a reference to the increased incidence of private leasing arrangements Maori landowners were making with Pakeha ‘with benefit to all parties concerned.’ On 27 May 1952 this letter was also forwarded to the Minister of Maori Affairs, with the council’s warm endorsement of his legislation ‘My Council feels that whilst preserving the inherent rights of the Maori

⁴¹ Ibid; DB:1017

⁴² Auckland registrar to Maori Trustee, 8 April 1952, AAMK 869 W3074/387c 12/0 part 1; DB:999

⁴³ Raglan County Council clerk to secretary, NZ Counties Assn, 15 May 1952, AMMK 869 W3074/394d 12/0 part 2; DB:1020

owners you have at the same time made the biggest possible contribution to the Nation's wealth.'⁴⁴ The following day Brownlee-Smith received news which caused him such excitement he immediately relayed word of it to the association, (again with a copy to the Minister):

It gives me the greatest of pleasure to advise you that as a result of Orders of the Maori Land Court granted on the application of this County 682 acres of Maori land has been leased to eight (8) Europeans.

Further Maori land in the County will shortly be advertised for lease and my Council now intends to apply for Orders in respect of all Maori land in the County which can be brought into pasture.

I would suggest that now the practical effect of the Act has been proved that all the Counties with Maori land should be asked to act immediately.⁴⁵

After 25 years of lobbying, local government had finally achieved a mechanism which promised an end to all aspects of the 'Native Land Problem'. And like the earlier strategies to deal with rating and settlement through Crown purchase and forced settlement, it too entailed no less than the end of Maori tenure. The Minister's response was an endorsement of the council's stance: 'I am firmly of the opinion that if other County Councils take advantage of the provisions of the Act, as your Council is doing, the problem of idle and unproductive Maori land will soon be on its way to a complete solution.'⁴⁶ The *New Zealand Herald's* reporting of the news was as equally ominous for Maori landowners: 'It is a small beginning, but if the process is carried on with vigour and persistence, tens of thousands of acres, nearly all excellently suited for pastoral production, will be turned to account.'⁴⁷ The legislation was described in the article as a means of 'clearing the legal and administrative jungle that surrounds Maori land', for New Zealand could ill afford to let 'legal quibbles keep good Maori lands out of use by settlers of either race.' Paradoxically, while claiming Maori interests were fully safeguarded in the process, the implication was that the lands would in fact be farmed by Pakeha, the newspaper repeating the received wisdom that '... it is agreed by all parties that most of the land, owing to high rainfall and other conditions, cannot be farmed successfully by Maoris.'⁴⁸

The *Herald* article was critical of 'departmental red tape' slowing the whole process and by June 1952 it is clear the Auckland office was under pressure. Some 90 orders had been made by this time, each requiring a supervisor's report before recommendation could be made to the Minister. Considerable

⁴⁴ Raglan County Council clerk to Minister Maori Affairs, 27 May 1950, in above; DB:1021

⁴⁵ Raglan County Council clerk to secretary, NZ Counties Assn, 28 May 1952, in above; DB:1022

⁴⁶ Minister Maori Affairs to clerk, Raglan County Council, 4 June 1952, in above; DB:1024

⁴⁷ 'Maori Lands Must Be Unlocked', *NZ Herald*, 29 May 1952, in above; DB:1023

⁴⁸ *Ibid*

delays in obtaining this local information, together with the necessary valuations, held up the process by months, not helped by a shortage of staff.⁴⁹ The registrar also had concerns over the rigid application of the Act, arguing that in some cases – where the land was unattractive or had too many owners – it was more appropriate to sell rather than lease. He also drew attention to cases where the owners had wanted to farm but could not afford the requisite purchase of existing improvements.⁵⁰

6.1.4 *The Question of Development*

One of the casualties of the administrative shortcomings, exacerbated by ongoing local body pressure, was the development of vested lands for Maori settlement. It had been six months since the decision to withhold the Minister's confirmation of the orders over these lands, and in spite of repeated inquiries from Wellington little progress had been made. In June Robertson reported that the withheld blocks had been reviewed, although with regard to some of the larger areas, development proposals were still under investigation. As a result of the review, a number of these blocks were now recommended for the Minister's consent to alienation, and the registrar was not enthusiastic about the overall potential for development within the Raglan County:

I must say, however, I have seen nothing in the Raglan County area which strikes me as a very attractive development proposal. We have much more attractive areas in other parts of the Waikato-Maniapoto District already served by good roads, and suitable for closer settlement when developed. I think the Department should hesitate before it commits its resources and available funds to the development of remote areas in the Raglan county which, when developed, will not be very suitable for settlement by Maoris.⁵¹

The issue was clearly one of financial resources, but it is also the case that ongoing pressure from Raglan County Council was a factor in the Department's consideration. As a visiting Department accountant saw it:

although it may be desirable that some of the blocks should be administered under Part I, there must be a strong possibility that some of this land will not come under development immediately. The local bodies who are applying for the orders are certain to keep a close watch on the Department's activities on the blocks withheld from the operation of the orders and we may find that we are subjected to some criticism if lands leased are brought into production while those which are held under our control are left for a long period in their present derelict state. It seems to me that if the field staff in the area need some four months to make a valuation and report on a block they are hardly in

⁴⁹ See for example Inspecting accountant to assistant under secretary, 11 June 1952, in above; DB:1025-26

⁵⁰ Auckland registrar to Maori Trustee, 19 June 1952, in AAMK 869 W3074/387c 12/0 part 1; DB:1000

⁵¹ Ibid

a position to supervise active development of these blocks. I think also that in making the decision to hold the land under Part I, some consideration must be given to the possibility of development within a reasonable time. Of the 44 recommendations received from Auckland to date consent has been withheld on 15. As approximately 90 orders have been made to date, and assuming that a similar proportion are withheld, it is clear that we are faced with a considerable amount of new development which, on the face of it, appears beyond the capability of our present organisation to handle.⁵²

Over and above the pressures of resources and time, there were legal and administrative technicalities thwarting development assistance with vested lands. Maori had the land and the labour: what was required was a capital injection to get farming underway, by way perhaps of low-interest loans or the supply of materials and stock, and technical farming advice and support. Maori Affairs on the other hand was committed to development along the lines of Part 1/1936, a cumbersome process which involved Departmental take-over of multiple properties, initial development as a 'station' for a number of years with an associated large debt loaded onto the same, and the subsequent lease of units to Department-vetted occupiers. By November 1953 the inability of the Department to help Maori farmers develop vested lands under Part 3/1950 was spelt out by the assistant Secretary for Maori Affairs with regard to the request of James Forbes for development assistance. It was admitted that part of the rationale behind Part 3/1950 was to 'ease the burden' on Vote Land Settlement and the work of the Department: 'As a general rule, therefore, people handling land under Part III/1950 are not amongst those we would contemplate for assistance from Vote Land Settlement.'⁵³ In addition, the assistant Under Secretary explained that to have farming operations financed under Part 1/1936 while the land was leased under a different authority would make for 'complicated and difficult situations'. In order to provide financial assistance, it was claimed that it would be necessary to first end the Part 3/1950 Order, and bring the land under Part 1/1936. In any event, the 'general rule' as first expressed precluded departmental help:

All in all, although in principle in this particular case we might consider changing to Part 1/1936, there seems to be so many practical difficulties in the way that the best thing is to reply to Mr. Forbes that it is not feasible to arrange assistance from Vote Land Settlement.⁵⁴

The admission that the rationale behind the legislation enabling private development of Maori land was to take the pressure of State development is an important one which belies the earlier reassurances given by

⁵² Inspecting accountant to assistant under secretary, 11 June 1952, AMMK 869 W3074/394d 12/0 part 2; DB:1026

⁵³ Assistant secretary Maori Affairs to Auckland district officer, 16 November 1953, AAMK 869 W3074/394e part 3 12/0; DB:1032

⁵⁴ Ibid

Ropiha to the likes of Herangi and the advisory committees. The land development provisions of Part 1/1936 were refined and replaced by Part 24 of the Maori Affairs Act 1953.

The gulf between Maori needs and available government assistance is exemplified by George Maihi's application for the lease of Moerangi 3D1. Maihi was a well-known and well-respected member of the Te Mata community in Raglan County, who with his family had been independently dairy farming a 60-acre block at Makomako since 1925 without road access. (His attempts to get road access 30 years later are set out in Chapter 9.) Maihi's interest in leasing the adjoining 430 acres resulted in an attempt by the county council to have the vesting order over 3D1 cancelled nine months after it had been made, but this was refused by the Court. When the block came up for tender in September 1955, Maihi applied for the lease on condition that the Department assist him with the costs of development, which he estimated at £10,000.⁵⁵ The district officer agreed with Maihi's statement that he would be the only person in the area interested in the land for, like Maihi's own farm next door, 3D1 lacked access, but he explained that financial assistance 'would not be possible so long as the land remains under Part XXV, the policy being that Part XXIV assistance is not applicable to land under Part XXV.'⁵⁶ The block was too far away from other development lands to be considered for Part 24 development. Maihi was told instead to approach the Maori Trustee for finance. In a particularly perverse twist, given the living conditions the Maihi family and their neighbours had put up with for years on account of having no road, in November 1955 Head Office directed the district officer in Auckland to defer the lease of 3D1 until a decision about the road had been made. 'Mr. Maihi is in a favourable position to put in a tender for this land by virtue of the advanced information he has received about the proposed construction of this road, and we must guard against political capital being made out of this fact.'⁵⁷

In January 1956 Maihi again jogged the Minister of Maori Affairs about the lease. He was keen to begin work on the block to keep his four sons from seeking employment elsewhere and informed the Department that he had been offered private finance. He was told in return that the likelihood of obtaining the lease of Moerangi 3D1 would 'largely depend on your ability to meet the costs of development of the property, as it is unlikely that the Maori Trustee could advance any money for this purpose on the very limited security of any leasehold interests.'⁵⁸ The block report had described the land as good sheep country and initial departmental correspondence about Maihi's application had mused that while he would not have the means to transform the block into a fully productive sheepfarm, he would control the

⁵⁵ Translation, G Maihi to Maori Affairs, 25 November 1955, MA 1 245 12/1064, ArchivesNZ Wgtn; DB:131

⁵⁶ Assistant district officer to secretary Maori Affairs, 6 January 1956, in above; DB:132

⁵⁷ Secretary Maori Affairs to Auckland district officer, 14 November 1955, MA 1 498 22/1/279; DB:746

⁵⁸ Minister Maori Affairs to Maihi, 27 January 1956, MA 1 245 12/1064; DB:135

noxious weeds and pay the rates. By March 1956 however, District Officer AE Edwards had changed his mind. Further investigation had revealed that the land was not the 'easy rolling country' as previously reported to the court, but rather steep country covered in heavy manuka and scrubby bush. 'When the usual covenants of the Part XXV lease were explained to Mr. Maihi he agreed that development would be costly and difficult and beyond his resources.'⁵⁹ Edwards recommended that the lease be held up until the access road to the block had been completed.

In April 1956 Maihi tried a different tack. Giving up on the Auckland office, he wrote directly to Corbett asking for the exchange of his wife's interests with 50-60 acres of land adjoining his block, in Moerangi 3D2. Maihi proposed to clear the manuka on the whole of both 3D2 and 3D1, to sow grass seed, and to erect all boundary and subdivisional fences on both blocks, free of labour cost. As quid pro quo the Department was asked to bring about the exchange, and to pay half the cost of the boundary fence of 3D1, and to purchase the necessary grass seed, fencing wire and livestock for the area of exchange. In a second letter of the same date Corbett was urged to respond quickly, 'before my sons leave home in search of other employment.'⁶⁰

Maihi's proposal is the kind of practical assistance Maori farmers were asking for, to develop their family lands, to keep their off-spring in the community. It was a potentially workable solution that served to meet both of the stated government aims of getting 'idle' lands into production by 'land conscious' Maori farmers themselves. Instead however, Maihi ran into the brick wall of Maori Affairs bureaucracy. Corbett's response, drafted by his under secretary, now EA McKay read:

Regarding your application for financial assistance to develop your land, this is not a matter which I, as Minister of Maori Affairs, can make a decision. It is the Board of Maori Affairs which makes such decisions. The normal procedure is that you should make an application to the District Officer at Auckland to have your lands brought under control of the Department and for financial assistance. The Field Officers of the Department will then inspect the property and report to the District Officer who will forward the full case to the Board of Maori Affairs for a decision.⁶¹

As the result, Moerangi 3D1 remained unleased and unproductive. The Part 25 order was cancelled in June 1964.

⁵⁹ Auckland district officer to secretary Maori Affairs, 16 March 1956, in above; DB:136

⁶⁰ Translation, G Maihi to Corbett, 24 April 1956, in above; DB:139-140

⁶¹ Minister Maori Affairs to Maihi, nd, in above; DB:141

In November 1952, 31 further applications were set down in the panui for the hearing in December, but these did not proceed owing to some misunderstanding with the Court.⁶² The value of prosecuting another ‘bulky group’ had been questioned by the county solicitor who pointed out that of the 6626 acres vested in the Maori Trustee as a result of the March and June orders, to date only 682 acres had in fact been leased. It was suggested that for the time being the council might consider putting off further time and expense on prosecution ‘unless some assurance of more positive action on the part of the Maori Trustee can be obtained’.

A more fruitful course might be that of selecting only suitable areas from amongst those still to be dealt with and leaving the remainder of the land in the meantime. By ‘suitable’ we mean such land as can be readily developed and for which the Council has good reason to believe there would be an immediate demand from, say, adjoining owners. If orders were made in respect of such lands the Maori Trustee might be more readily disposed to exercise the powers conferred upon him by the Act, and if this were done the Council’s endeavours to have these lands brought into production might show more positive results.⁶³

In expressing their dismay at the deferment of the December applications, the county also took the opportunity to complain yet again at the Department’s delay in processing the orders. In his defence, Robertson set out the procedures required by the Act before the land could be offered for public tender, concluding with the reassurance that the Maori Trustee was ‘doing his best to deal with the matter.’⁶⁴

Between 11-13 March 1953 a number of adjourned applications were prosecuted but only three new applications were made, including one for Moerangi 3D1, the block discussed above that George Maihi subsequently tried to lease. The county argued that the large unoccupied area fronting the Aotea harbour would make a good sheep farm. In all, the Court considered nine applications. One was struck out on the grounds that it had been leased. Another, the bush-covered Moerangi block discussed above, was adjourned to enable the registrar to consider its inclusion in the Kawhia Development Scheme. Vesting orders were made for the remaining seven. The minutes also record that 16 applications were withdrawn, but in the absence of a panui it is not known if these were in fact Section 34/1950 applications by the council.⁶⁵

⁶² Auckland registrar to clerk Raglan County Council, 23 December 1952, 5/9 Admin. Application for land under S.34, Waitomo DC; DB:2524

⁶³ Murray, Tompkins & Wake to clerk Raglan County Council, 26 November 1952, M1/1/1 Maori Land Court Box 22, Waikato DC; DB:2101

⁶⁴ Auckland registrar to clerk Raglan County Council, 23 December 1952, Admin. Application for land under S.34, Waitomo DC; DB:2524

⁶⁵ Mercer MB 33/121

Up until this point the results of the legal action had overwhelmingly favoured the county council which expressed itself to the Minister of Maori Affairs as ‘well pleased’ with the progress to date.⁶⁶ Some 2200 acres had now been leased under the Act ‘[i]n all cases ... to efficient farmers with the necessary capital to develop the land’, with the promise of further leaseholds to come. Loan monies had already been allocated by the council to provide metalled access to ‘one or two’ of the leaseholds, and the council promised that more provision would follow. In this letter the council spoke of the ‘considerable trouble’ which had been expended, both ‘to bring the lands before the notice of interested parties’ and to share its experience with the neighbouring counties. It also spoke of the ‘very excellent co-operation’ it had received from the Auckland office. Administrative difficulties had been overcome, the clerk stated, ‘in conference with the Judge concerned and the Department.’ Notwithstanding the council’s delight in the results, the real reason for the correspondence lay in the closing paragraphs:

I am convinced that the lease terms present no financial difficulties to an efficient and financial farmer. There is a financial handicap where an efficient young farmer has not the finance available to tender for a lease. As you know, it is almost impossible for a young man today to purchase the freehold title to a farm and Counties are anxious that Government Departments be authorised to advance loans by way of mortgage on any lands offered for lease under this particular Act. The farmers who have leased lands in the County to date are middle-aged persons or the sons of farmers who have accumulated a fair amount of capital. Unless Government Departments are prepared to advance loans it is going to be extremely difficult for a young farmer to tender.

Several excellent young farmers are known to me who are anxious to lease lands both in the Kawhia and Raglan Counties but cannot do so because of lack of finance. If some form of finance could be arranged – it occurs to me that possibly the Marginal Lands Committee may be able to assist – it would be possible to help these young men.⁶⁷

The request divulges the trace of two important issues regarding the 1950s legislation. The first of these is the aggregation of land by existing farmers (and ratepayers) in the district. Section 30(2) of the Land Settlement Promotion Act 1952 provided that where the Maori Trustee was appointed agent for the owners under Part 3/1950, he could not alienate any part of that land if this would cause an undue aggregation of farm land. Faced with the reality of having to find lessees however, departmental practice meant that the restrictions against aggregation of land were largely ignored. This was spelt out in draft

⁶⁶ Raglan County Council clerk to Minister Maori Affairs, 17 March 1953, AAMK 869 W3074/394e part 3 12/0; DB:1028

⁶⁷ Ibid; DB:1029

rules circulated to department staff in March 1953.⁶⁸ With regard to uneconomic units, officers were to disregard the provisions altogether. This was also true of economic units for which there was only one purchaser or lessee in sight. Where there was competition, the land was to be disposed of to a qualified person. Brownlie-Smith's correspondence above confirms that in fact all of the leaseholds at this time had gone to existing established farmers, many of them adjoining landowners. In drawing the Minister's attention to the anomaly between the law and departmental practice, the Under-Secretary suggested 'If the disposition of land under Part III becomes an embarrassment so far as aggregation is concerned, you may wish to consider whether the provision of the 1952 Act should not perhaps be modified'.⁶⁹ Later that year the provisions regarding the undue aggregation of farm land were incorporated into the Part 25/1953 amendment as Section 404.

The second issue relates once again to development, reinforcing the point already discussed above. Financial capital was required to develop these lands and without it potential occupiers, whether Pakeha or Maori, could not tender for the vested lands. And the whole unspoken point of the legislation was that Maori landowners by and large did not have access to such capital. The suggestion outlined to the Minister in March 1953, that the Department provide financial assistance for initial capital works to farmers leasing under the Act became the substance of a subsequent remit to the Counties Association. Although moved by Barrett, chairperson of Kawhia County Council, there is little question that it was driven by Raglan County Council, and Chairperson Logan spoke in support. The remit was in two parts: the first called for a speeding-up of the process, setting down a six month timeframe from the point of Court order to the time of advertisement for public tender of lease. The second called for State financial assistance for farmers leasing under the Act, for, as Logan disingenuously argued given the council's primary role in propelling the legislation, 'We feel that the Government intends that this land should be farmed and should make available to farmers suitable finance.'⁷⁰ Not surprisingly perhaps, given the history of leasing in the King Country, the call for State assistance was also a cloaked attack on the leasehold title. Barrett claimed that neither the Public Trust Office nor the State Advances Corporation was prepared to lend on the strength of a 21-year lease. And if the Government was not prepared to take the risk, it was unfair to ask an individual to do so. The Government should either improve the title, or make finance for capital works available. The remit was carried.

Lastly, Raglan County Council's request for State assistance can be contrasted with its attempt the following year to keep Maori development schemes from the county. In April 1954 the county councils of

⁶⁸ Maori Trustee to Minister Maori Affairs, 23 March 1953, in above; DB:1030

⁶⁹ Ibid

⁷⁰ Remit 28 Maori Purposes Act 1950, in above; DB:1031

Kawhia and Raglan hosted the Minister of Maori Affairs on his visit to the district. The Minister was warmly congratulated on his legislation and taken on an aerial survey and site visits to see some of the lands that had been vested as a result. Chairperson Logan described the Act as ‘the most common sense legislation this country has ever had in connection with Maori lands’. His defence of the charge that the county was ‘picking the eyes out of the Maori land’, was a telling indictment of poor State and county provision of access for such lands:

Maori lands generally in the Waikato are well away from the State highways and populated towns. They have poor access; in many cases they have no electric power and are covered either in scrub or second growth timber. ... Access in the case of 90% of the land leased or about to be leased is poor; practically all of the land is scrub covered, most of it is infested with noxious weeds and generally it is land which only efficient farmers with a considerable amount of capital could develop.

It would have been impossible for the Maori owners to develop these areas. ... Circumstances over which the Maori has no control prevents him from developing the type of land which we are discussing and the Government has done him a good turn in making it possible for these lands to be developed at no expense to the Maori and at the same time preserving the title in the name of the Maori race.⁷¹

In view of the poor access, the chairman went on to ask the Minister for financial help to pay for the provision of roads. And in the very next breath the Minister was told of Raglan County Council’s ‘very firm opinion’ that there was no need for any Maori Affairs land development schemes in the county:

We submit, Sir, that the individual can handle all the development that is required far more quickly, far more economically and at absolutely no cost to the Government. The only monetary assistance we ask is for roading and here again the County would probably be prepared to assist financially.⁷²

For its part Kawhia County Council favoured the best lands in the county to be dealt with under Part 25/1953 by European lessees, leaving the more difficult areas to Maori Affairs. The local body sentiments expressed on this occasion caused the district officer to ruminate: ‘It would appear very doubtful that the desires of the Kawhia and Raglan County Councils are in the general interests of the Maori owners, or even in the general public interest.’⁷³

⁷¹ ‘Notes of representations made to Minister of Maori Affairs...’, 7 April 1954, AAMK 869 W3074 62/1 part 2; Hearn DB:2/246

⁷² Ibid

⁷³ Auckland district officer to secretary Maori Affairs, 17 May 1954, cited in Hearn, p 410

Relations with Maori Affairs came to a head in June 1954, when Raglan County Council complained to the Minister of Maori Affairs about the delay in advertising the lands for tender which had been vested in December. This included the Ohiapopoko blocks which had been shown to the Minister when he visited in April and which, the council maintained, could have been developed by now if they had been let for tender. Considerable interest had also been generated in the vesting of the Te Akau B15 block of 2167 acres, and the council was disappointed at the lack of progress due to the Department's consideration of development.⁷⁴ The council reiterated its stance of April, that there was no need for Maori Affairs development in the county:

My council appreciates that some Counties welcome Land Development by the State but in Raglan we contend that it is unnecessary for the State to remain in occupation of large areas for a long term. Individual farmers working under a freehold title have successfully developed 95% of the County and we can see no reason why farmers, working as individuals, cannot with equal success develop the remaining 5%.⁷⁵

Aspersions were cast on the benefits of the Department's existing schemes and the impact of the policy on the administration of the Act.

The facts I state, Sir, constitute the main reason why Counties generally will not operate the Maori Purposes Act or its successor, the Maori Affairs Act 1953. They have experienced delay and frustration from the Maori Affairs Department in past years and expect the same conditions to apply under the new Act. This attitude has been clearly shown at County Conferences and other Counties are frankly sceptical of the measure of success which Kawhia and Raglan Counties have already experienced in administering this Act. If the Department is going to develop areas after a vesting Order has been made by the Maori Land Court then it is useless for the County to proceed with the administration of the Act.⁷⁶

On this occasion Raglan County Council had in fact, pushed too far. Apart from the Te Akau blocks, the other five blocks which the council enquired about were simply moving through the administrative hoops to prepare them for leasing, which Robertson pointed out could not be hurried, particularly as there were only two staff members dedicated to deal with the deluge of Part 25 Orders. The registrar also took exception to the council's criticism of the development schemes, making the point that it had been very pleased when the Department undertook the schemes 15 years before as weed-infested lands for which no

⁷⁴ Raglan County Council clerk to Minister Maori Affairs, 8 June 1954, AAMK 869 W3074/394e part 3 12/0; DB:1035-36

⁷⁵ Ibid

⁷⁶ Ibid

rates were collected were now cleared and farmed and producing a rates return: 'It seems to me a trifle ungenerous to now criticise the Department for doing what the Council was anxious should be done.'⁷⁷ Robertson countered a number of other points made by the council, including the apparent contradiction in the paragraph cited above, where the council on the one hand admitted it had experienced success and on the other spoke of frustration and delay. Lastly he contrasted these comments with the laudatory feedback the council had made the previous April. 'This Office' the registrar concluded, 'has gone to some trouble to endeavour to maintain harmonious relations with local authorities and has had some success. It is regrettable that, in spite of our efforts, there appears to be some doubt whether we have been able to achieve this result so far as the Raglan County Council is concerned.'⁷⁸ The resulting response to the council from the Minister, prepared by the under secretary, was terse:

The policy is that, so far as circumstances will allow, Maoris are not only to be permitted, but encouraged, to make proper use of their land, without assistance where they can, or with the assistance of the State, so far as that can be extended, where they require it. That policy is reflected in Parts XXIV and XXV of the Maori Affairs Act 1953. On more than one occasion, I have told groups of Maori representatives what the policy is, and what its implications are, and I know of nothing that would cause me to depart from the assurances which have been given to the Maoris.⁷⁹

A more subdued explanation of the council's concerns was proffered by Chairperson Logan in the wake of the fall-out. 'I regret Sir, that you should have gained the impression that my Council is desirous that idle Maori lands be leased only to Europeans.' What was wanted, he insisted, was some definite advice of the Department's intentions of its land policy and he outlined again the litigation over Te Akau B15 dating back to June 1951. 'If the Department is going to develop this land itself then could we ask that it take immediate steps to do so. ... Whilst the present stalemate exists the land, instead of being potential wealth, is just a burden in that it requires public funds spent on it to control noxious weeds and seriously affects the farming operations of adjoining owners.'⁸⁰ The argument found sympathy with Corbett who instructed the Under-Secretary 'If, for financial or other reasons it is inadvisable to develop ourselves early, then the Court orders should be put into effect.'⁸¹

From the outset, the debate about the forced settlement of unproductive Maori lands in Te Rohe Potae was accompanied with the palliative that the Maori owners themselves should be assisted to farm their

⁷⁷ Auckland district officer to secretary Maori Affairs, 22 June 1954, in above; DB:1037-38

⁷⁸ Ibid

⁷⁹ Minister Maori Affairs to clerk Raglan County Council, 6 July 1954, in above; DB:1040

⁸⁰ Raglan County Council chairman to Minister Maori Affairs, 7 September 1954, in above; DB:1042-43

⁸¹ Minister Maori Affairs to secretary Maori Affairs, 1 October 1954, in above; DB:1044

lands. This was the basis of Prime Minister Fraser's policy which perhaps contributed to his electoral defeat in 1949, but it was repeated to Maori audiences by the newly elected Minister of Maori Affairs, Ernest Corbett. This, too, was the dream of the landowners themselves. As the previous chapter has outlined, at Te Tokonganui a Noho in March 1953, Ngati Maniapoto identified the lack of capital as the fundamental reason behind the unproductive land and Corbett was asked for a progressive and active policy of development. That considerable capital was required to convert these lands into farms – given the isolation, the quality, or the lack of access – is verified by the counties' own pleas for financial help towards roading.

The promise of development assistance proved illusory. Despite early government assurances of departmental assistance for lands subject to Part 25 orders, Maori Affairs was in fact hamstrung by the existing ponderous development models enshrined in Part 24, and no new measures were put in place to kickstart Maori farmers on Part 25 lands. The sobering admission of government officials that Part 25 had been designed partly to 'ease the burden' on Maori Land Settlement funds, seems proof that there was never really any serious intention on the part of government to do so. In many cases land blocks identified as having potential for development under Part 24, and either adjourned in court or withheld from Ministerial consent, increasingly succumbed to the pressures of time and stretched resources, and inevitably defaulted instead to Part 25. The 1950s legislation had indeed overcome the problems of multiple ownership to provide occupiers with a secure title. However without the second half of the equation – capital – these titles were either taken up by those with the means to do so, or left as 'idle' as they had ever been.

6.1.5 Ongoing pressure

Raglan County Council did not rest on its laurels. By the end of March 1953 the county was perturbed by the news that some owners intended to apply for the cancellation of the order over their land. Legal advice was sought: 'If Maoris are going to appeal against an Order ... then dealings with any land can be delayed unnecessarily.'⁸² It was told that this was within the owners' rights, and that indeed, the Maori Trustee would scarcely proceed with the alienation if an application for cancellation had been made. 'The only course we can suggest is that pressure be put on the Maori Land Court to have the application disposed of.'⁸³ The council also took exception to a ruling at this time by the Chief Judge that with respect to Section 34, the grounds regarding unpaid rates only applied when a charging order had been made, with the appointment of the Maori Trustee as agent providing an alternative to the earlier provision

⁸² Raglan County Council clerk to Tompkins & Wake, 30 March 1953, M1/1/1 Maori Land Court, Box 122, Waikato DC; DB:2103

⁸³ Tompkins & Wake to clerk Raglan County Council, 17 April 1953, in above; DB:2104

for the appointment of a receiver.⁸⁴ The council was not unduly concerned about the impact of the ruling on its Section 34 applications, for as it pointed out, unpaid rates were seldom the only grounds on which such applications were based. Rather, its initial reaction was related to the administrative cost involved: 'To obtain a Rate Charging Order is not only a nuisance but there is a tremendous amount of detail and Court work involved in eventually enforcing it.'⁸⁵ The solicitor's response is insightful. Council was told that the ruling was correct, and the solicitor then went on to outline the procedure for obtaining a charging order under Section 108 of the Rating Act 1925. His suggestion that this procedure be adopted for the recovery of rates on Maori land is also a revelation as to county practice:

The practice in the past has been for us to issue ordinary Summons from the Magistrate's Court but we think that there is no provision for doing this contained in the Rating Act and the Maoris concerned could successfully defend a Summons for rates on the ground that the Magistrate's Court has no jurisdiction to issue Summons in respect thereof. Accordingly, we suggest that in future when you are supplying to us details of rates to be collected, you advise us which is Maori land and we will then follow this procedure instead of issuing a summons.⁸⁶

This advice was subsequently modified after a review of conflicting case law, the latest judgement supporting the position that a local body could in fact sue an owner or occupier of Maori land in the ordinary courts.⁸⁷ The county's practice of prosecuting Maori occupiers of productive Maori land in the ordinary courts, however dubious on legal grounds, explains the otherwise cryptic references in the minutes of the 1950s prosecution of Raglan lands which are at such odds with other King Country local bodies. In the counties of Waitomo and Kawhia for example, rates were often stated to have been 'unpaid for years' or 'never paid.' In the case of Raglan County on the other hand, in a number of cases references to unpaid rates are 'one year's rates owing' or 'current rates outstanding'. The county's concern with adopting the charging order procedure to collect rates from occupied and farmed Maori land were the familiar criticisms about the cumbersomeness of the process, without any guarantee of payment. Its response to the advice was to ask the county solicitor to prepare a remit for the upcoming Counties' Association conference, calling for the abolition of Section 108 of the Rating Act 1925, and for the collection of rates on Maori land to be subject to the same statutory basis as that for European land.⁸⁸

⁸⁴ Chief Judge Morrison to clerk Rangitikei County Council, April 1953, in above; DB:2106

⁸⁵ Raglan County Council clerk to Tompkins & Wake, 4 February 1954, in above; DB:2107

⁸⁶ Tompkins & Wake to clerk Raglan County Council, 25 February 1954, in above; DB:2108

⁸⁷ Case law cited by Tompkins & Wake included *Whakatane Borough Council v Lawson* 1933 MCR 79; *Hurimoana IB2 Block 1937* NZLR 859; *Waipawa County v Hori Tupaea* 1939 MCD 179; *Prosser v Makara County* 1942 NZLR 284; in Tompkins & Wake to clerk Raglan County Council, 8 April 1954, in above; DB:2114-16

⁸⁸ Raglan County Council clerk to Tompkins & Wake, 18 March 1954, in above; DB:2113

In December 1953 a number of adjourned applications were dismissed on the grounds that the blocks were deemed inalienable. A further ten new applications by Raglan County Council were prosecuted and vesting orders resulted for all ten blocks. Once again, what is striking is the lack of proper notice to the landowners. In half of the new cases before the court, notice had been served by way of advertisement rather than in person. Quite apart from the abuse of proprietary rights this raises, it is also demonstrative of a significant gap in the council's local knowledge of its constituency. The readiness to prosecute without first consulting the landowners also resulted in outcomes the council later had cause to regret. At this December hearing application was made by the council for cancellation of the vesting order over Moerangi 3D1, which it had obtained just ten months before. At the March hearing it had been stated that the principal owner of the land had written in endorsing the order and that George Maihi, the neighbouring Maori farmer would lease the land. None of the owners were represented in court. In seeking the cancellation in December, the council informed the court that it had seen an owner in August and the rates had all been paid. Another owner had written in that the land would be used, and there was also now talk of a sale to Maihi. The Court however considered this did not constitute grounds for cancellation and the application was adjourned.⁸⁹

In only three of the ten cases was there an owner presence in court, and in two of these, those present sought to retain ownership and control of their interests in the block. In both cases vesting orders were made: one with the note that the owner would try to arrange partition and occupation of his interest, and then apply for cancellation 'if court satisfied with his proposal'; the other with the note that the owner intended to take over the shares of her sisters, have her interest partitioned out and then occupy the land: 'if she does she may apply for cancellation'.⁹⁰

6.1.6 Applications under Part 25/1953

In December 1954 four new applications were prosecuted by Raglan County Council. Two of these were on the slopes of Pirongia and inaccessible other than through the neighbour's paddock. The application for Pirongia Lot 285 appears nonsensical: two-thirds of the area was covered in dense bush, which the county itself considered should be left intact as the land was too steep for development, and the county itself recommended that this portion be declared non-rateable. Pirongia Lot 289, of 70 acres, on the other hand was considered farmable and given the lack of access, the neighbouring farmer the only man who

⁸⁹ Mercer MB 33/234

⁹⁰ Te Akau B15B2C2 and Ohiapopoko 2B2; Mercer MB 33/233-235

could be interested. Orders were made for both blocks, with a minimum rental, and the condition that the lessee was not to interfere with the timber on the land, which the owners could sell at any time.⁹¹

The other two applications were for Waipa blocks near Te Uku – Waipa 64A of 3083 acres and 63B – which were considered together. These blocks were part of a larger area of Maori land. Neither blocks were farmed nor did the smaller Waipa 63B block have access. Half of 64A was forested, or, in the county's words, millable, and in fact a mill was in operation on the block, run by a Mr Richardson. The remainder was secondary growth of manuka and weeds. The county considered that one-third of the area had potential for farming, while the registered valuer considered that clearing the bush portion would create erosion. The issue of departmental development of the area had already been raised, with no result. Notwithstanding this, the matter was referred back to the Department to reconsider: 'it is a large block with other large areas of Maori land near it. If the Dept. after consideration is unable to offer any prospects of development within (say) 5 years an order will be made.'⁹² The Court added that the county should have regard to other Maori lands in the area which could be leased with 64A. By April 1955 the Department of Maori Affairs was no closer to a decision about the lands, but the county had made application for three more blocks in the area. In December 1955 the applications for 64A and 63B were again adjourned to enable a meeting of owners to consider leasing to a Mr Bond, which was agreed to – in part.⁹³ Confirmation of the resolution was however withheld by the court until further particulars could be supplied. The Part 25 application was reheard in September 1956. Bond was present and agreed to withdraw his application for confirmation of lease over a portion of the land if an order appointing the Maori Trustee was made. The order was made for both blocks, to be farmed or milled according to the earlier report.

By March 1955, 10,380 acres had been vested in the Maori Trustee as a result of Raglan County Council's prosecution. As a result of its continued pressure on the Maori Trustee, 4938 acres of this had been alienated in 21 leaseholds, five of which were leased to Maori, and leases for a further 1384 acres were pending.⁹⁴ Raglan County Council was widely considered to be an authority on the use of Part 25, and indeed an exposition on the Maori Affairs Act 1953 by county clerk Brownlee-Smith written in March 1955 was found among the records of the Otorohanga County Council.⁹⁵ The two-page document

⁹¹ Mercer MB 34/158

⁹² Mercer MB 34/161

⁹³ Following details are from Tompkins & Wake to clerk Raglan County Council, 13 September 1956, M1/1/1 Maori Land Court Box 122, Waikato DC; DB:2120

⁹⁴ G Brownlie-Smith, 'Maori Affairs Act 1953', 233007 Application for land under Section 387 Maori Affairs Act 1953, Otorohanga DC; DB:1656-57

⁹⁵ *ibid*

reads like an encouraging ‘how-to’. Before making application, the clerk declaimed, a local body should be satisfied that there would be a demand for the land. If it had no economic value ‘it is obviously a waste of time and money to take action under Section 387.’ Nor should councils rely on the non-payment of rates as the grounds for application: ‘Our experience has been that the Court – and quite rightly so – holds that the Act is not to be used solely for the enforcement of rates.’ Brownlee-Smith also shared the council’s policy of remitting rates arrears where orders had been made: ‘... we think it far more desirable to have the land farmed and occupied than obtaining a settlement of past rate arrears. In any case, should a County insist on payment of arrears it only means that there is so much less money available for capital improvements on the land.’⁹⁶

The council’s role did not stop at the point of the court order: ‘Tender forms, conditions of lease and draft lease are available at the County Office and at this stage the Council’s Officers take an active interest in advising prospective lessees of all details of the land and terms of the lease.’ The reports of the county noxious weeds inspector WA Smith over 1957-58 reveal that in addition to his role in Court regarding the state of noxious weeds on the lands under application, the inspector’s duties included liaison with the Maori Trustee regarding the disposal of the vested lands; advice to interested Pakeha on the tender process; and showing prospective lessees over the available blocks.⁹⁷ In the winter of 1958 for example, four days were employed taking potential lessees over the Ohiapopoko blocks vested five years before, and to the recently vested Rakaunui blocks near Raglan.

Brownlie-Smith also made covert reference to the council’s unsuccessful attempt to influence the Maori Trustee’s choice of applicant, for as he explained, ‘it has been found in several cases that, in the Council’s opinion, the highest offer is made by a person whom the Council considered was not the most efficient farmer nor were his financial circumstances sufficiently strong to develop the land according to the terms of the lease.’⁹⁸ The Maori Trustee’s duty to take the highest bid had in fact been challenged the previous year by the council, to little avail. In its April 1954 audience with Corbett, Chairman Logan had also pressed the point: ‘Prospective lessees for Maori lands are generally farmers well-known to the Council and I would suggest, Sir, that if the Department is prepared to submit the names of lessees the Council Committee would advise their opinion of the farming ability of the tenderers. ... We are most anxious that

⁹⁶ *ibid*

⁹⁷ WA Smith, Noxious Weeds Reports, 15 July–16 August 1957; 17 March–18 April 1958; 18 May–15 June 1958; 16 June–18 July 1958, RCC 3/1 Agendas and Reports, Waikato DC; DB:2074-79

⁹⁸ G Brownlie-Smith, ‘Maori Affairs Act 1953’; DB:1656-57

the right type of farmer lease the land.’⁹⁹ In Brownlie-Smith’s exposition the claim was made that ‘Where a Maori is known to be a reasonably efficient farmer and wishes to lease Maori land – whether he has an interest in it or not – the Council gives him every assistance’, with the five leaseholds taken up by Maori given in support.¹⁰⁰

The last batch of Raglan County Council applications for which minutes have been located were prosecuted in June 1957. This included an application for a 100-acre fishing reserve north of Whaingaroa Harbour. Only 30 acres were said to have potential for farming, the other 70 acres having been eroded and of very poor soil. Noxious weeds were few, and farmers on either side were said to be interested in leasing the land. An objection was made in court on the grounds that the land had been set aside as a tribal fishing reserve for the people of Waikato and Raglan, that many people fished and dove for crayfish from the area, that the only way to the land was by horseback, and that the horses grazed the land while the fishing took place.¹⁰¹ The grazing of horses was not considered by the Court to be of great moment, but ‘Maoris fishing rights should not be denied them.’ In view of the restriction on alienation, the Court considered it would have to be satisfied it had jurisdiction to make a vesting order and the case was adjourned. It was considered again in December 1957, and again adjourned, the Court requiring counsel submissions regarding why the restrictions had been imposed and the reasons why it might be revoked.¹⁰² The outcome is not known. The targeting of the fishing reserve lent fuel to an increasing groundswell of Maori opposition to the legislation evident by 1958. This is discussed below at (6.5).

The application for Te Kopua 2B2B2B was contested by an unprecedented 12 objectors. The degree of interest was partly because of dissent among the multiple owners which elicited the following opening remarks from the county lawyer, Tompkins: ‘I am aware that there are moves by some owners to develop the Block; County’s policy is that it does not mind who develops unproductive lands, so long as someone does so. I ask that formal evidence be taken & then this appln may stand over until it is seen whether the owners do take steps.’¹⁰³ The 55-acre block was the residue of land which had been taken under Public Works legislation for the aerodrome. Part of it was occupied by baches, and part used as grazing for the adjoining owners’ cows. There were also at least two cemeteries on the block. The gorse was said to be particularly bad and rates were not paid. The case was adjourned so that a meeting of owners could take place, and a ‘concerted effort made to put land into production & check weeds. There is a degree of

⁹⁹ ‘Representations to the Minister of Maori Affairs...’, 7 April 1954, AAMK 869 W3074 62/1 Part 2; Hearn DB:2/246

¹⁰⁰ G Brownlie-Smith, ‘Maori Affairs Act 1953’; DB:1656-57

¹⁰¹ Mercer MB 36/209

¹⁰² Mercer MB 36/353

¹⁰³ Mercer MB 36/210

occupancy but owner must sink their personal differences & work together to bring land into full use.’¹⁰⁴ When the case was reheard in December the owners were no closer to resolution. The court decided that an order under Section 387 would ‘facilitate a decision by a large number of owners who will not otherwise reach agreement.’ In making the order, the Maori Trustee was directed to have consideration in the first instance to leasing the land to Mrs Rickard ‘who is the only owner since Mrs Kereopa Snr to make any attempt to farm the ppty.’¹⁰⁵ In June an order was made for two Moerangi blocks which had been part of the Aramiro development scheme, for similar reasons. The lands had reverted to family ownership two years before, but an ongoing dispute between two brothers over occupancy meant that one of the brothers could not stock the land. In court he supported the order as a means to secure his title to the block.¹⁰⁶

Applications were also made for a number of Rakaunui blocks, including those for which earlier orders had been cancelled in the promise of development finance. These lands were described as ‘good quality land, very easy to work’ and highly sought after. Existing occupation on one of these blocks was dismissed by the county as ‘home-made’. In two cases the applications were adjourned to give owners the opportunity to clear the weeds and pay rates; for ‘the others’ orders were made.

Research beyond December 1957 for Raglan County Council has not been undertaken for this report. Further applications were made, particularly for Waipa blocks in the vicinity of Te Uku. The minutes indicate a change in tenor within the court, with considerably more concern for example about the issue of notice. Six applications in December were adjourned because it was deemed that inadequate notice had been served. In one of these cases for which notice had merely been advertised, the county’s prosecution was cut short and counsel told to obtain an up to date search and make an effort to find the owners.¹⁰⁷ By June 1961 a palpable shift had occurred in the regard taken for the circumstances behind the ‘unproductive’ use of land under application. In the face of eight applications for Waipa blocks from Raglan County, the officer from Maori Affairs argued:

... it is hoped to do consolidation and title improvement work in connection with these Waipa blocks. Partitions offer a very real handicap to any successful utilisation of the land, some have no road access, small and uneconomic in what is predominantly sheep and cattle grazing area. 63D for example is only 27¼ acres another approximately 44 acres miles back in bush without access; at least 6 or 700 acres required for economic holdings. Many Partition Orders would appear to

¹⁰⁴ Mercer MB 36/212

¹⁰⁵ Mercer MB 36/357

¹⁰⁶ Mercer MB 36/213

¹⁰⁷ Mercer MB 36/358

require cancellation, many interests would be uneconomic, Department is hopelessly handicapped by the title position.

... I sympathise with County's efforts but owners without capital and badly in need of Departmental assistance. Some limited farming going on, but resources limited.
...

It is very difficult to envisage how these Partition lines could have received Court's approval – not only the owners but also the County Council carrying out its duty as quasi trustee for its ratepayers and also the Department in trying to assist the owners have a legacy of unworkable areas. No good purpose would be served by making Orders under Pt XXV ...¹⁰⁸

The Court withheld the order on the basis that the title position rendered the Waipa blocks incapable of being farmed. The outcome was challenged by the council but it was advised by its counsel that little more could be achieved until consolidation had been made.¹⁰⁹

6.2 Kawhia County Council

Unlike Raglan County, Kawhia County Council could at least claim to have good economic grounds for taking action. The county council was neither well-organised nor well-resourced. As set out in earlier chapters, the early ambition of being the region's port had never materialised and instead the council had struggled for decades to maintain even the skeleton of county roads. This poor state was attributed by the county chairman in 1950 to the large 'uncooperative' Maori population who showed no willingness to farm their own lands.¹¹⁰ Inspired by Raglan's results, Kawhia County Council's prosecution of so many Maori blocks appears to have been driven by the dream of realising its destiny as the 'Golden Gate' of the King Country, or, at the very least, keeping the prospect of amalgamation from its door.¹¹¹ Research indicates that Kawhia County Council was less concerned (or more desperate) than Raglan over the ethnicity of the potential farmers – Maori would do equally as well as Pakeha – the main thing was to get the idle lands producing, and the resulting rating revenue into county coffers.

Kawhia County Council's delay in utilising the legislation – the first applications were not heard until September 1952 – was the result of internal upheaval and poor organization. A degree of preparation was required to prosecute an application – titles had to be searched so that the correct owners and occupiers

¹⁰⁸ Mercer MB 40/87-89

¹⁰⁹ Tompkins Wake & Patterson to clerk Raglan County Council, 16 August 1961, M1/1/1 Maori Land Court Box 122, Waikato DC; DB:2122

¹¹⁰ See for example 'County of Kawhia', presented to Corbett, March 1950, 233033 Maori Land, Otorohanga DC; DB:1732

¹¹¹ The term was used in *Kawhia district and port: past, present & future...* (Kawhia, Kawhia County Council, Town Board, and Chamber of Commerce, 1915), while amalgamation had been mooted in 1947.

could be notified of impending action. Technically, the council was unable to rely on the provision regarding the non-payment of rates because it had never obtained charging orders with respect to any Maori land, but this seems to have been blithely overlooked by both the council and the Court. In order to prove the other grounds set out in the legislation – non-occupation, neglect to farm, noxious weeds – property inspections were required. As a result, the council’s noxious weeds inspector, Fred Ormsby, was promoted in 1951 to Maori rates collector. His former duties made him the perfect council witness to report on the state of land in court.

The first batch of applications was heard at Te Kuiti on 5 September 1952 before Judge Beechey.¹¹² The council was represented by RL Swarbrick, of Swarbrick & Swarbrick. Property inspections had been undertaken by the newly appointed county clerk, Douglas Cunneen, who was also present and brief block reports were also submitted by the field supervisor of the Department of Maori Affairs. Thorn, an interested farmer with his eye on the lease of the Moerangi sections at Aotea, also gave evidence for the council. There is no indication in the court minutes that Thorn was in fact a councillor, but he had given evidence to the Local Government Commission in this role earlier in the year.¹¹³ The conflict of interest was problematic. On the one hand, the council had to show that there was demand for the land, and a reasonable chance of leasing it out. On the other hand, councillors and ratepayers stood to personally gain by the process. In the case of Thorn for example, one of the applications was made for land he was grazing under an informal agreement – Moerangi 3E1A. Rather than prosecute him as the occupier for the non-payment of rates, he was instead a council witness regarding the state of the Moerangi blocks, and presented by the council as the prospective lessee to support its application for having the land vested for unpaid rates. He subsequently took up the leaseholds of Moerangi 3E1A and B from the Maori Trustee, and purchased the freehold of Moerangi 3E1A in 1965.

The owners of the 13 blocks under application had been sent notice on 12 August, three weeks before. In six of the 13 cases, a number of the owners were present in court. The owners of Kawhia A2C1 had telegraphed through to request an adjournment but were told the hearing would proceed, and indeed an order was made in their absence. Similarly, orders were made for Kawhia A2D1 and Taumatotara 4B2, influenced – among other factors – by the non-appearance of any owners.

With one exception, where owners were present in court and objected to the application, some leeway was given to enable them to make arrangements. Paki Moke told the Court he wanted his son to farm Part

¹¹² Otorohanga MB 77/306-15

¹¹³ ‘Report of an inquiry ...’, 13 February 1952, see appendix ‘List of Witnesses’ 233042 Kawhia County Council correspondence, Otorohanga DC; DB:1762

Pirongia West 1/2F1B2B, of 566 acres, and the owners of Hauturu West 2B4C Pt, of 427 acres, told the Court they intended that one Matenga take over the land and farm it on their behalf. Matenga was present in court and cross-examined about his financial status and farming experience. In both cases the applications were adjourned, the owners being warned that if no proper arrangements for the use of the land were set in place, orders would be made. The council's solicitor reported that the judge 'was emphatic that Maori lands which were lying idle must be brought into production and impressed on such Maori owners as were present that this is necessary in the interests of the Maoris themselves and of the general public.'¹¹⁴ In the case of Moerangi 3E2A and 3E2B1, orders were made despite a marae and housing being located on these lands, with 'provision to be made for owners' occupation.'¹¹⁵

By the end of 1952 the council could be said to have assumed the role of a real estate agent. Three written enquiries were made over November-December from Pakeha interested in acquiring the lease of Maori land. Two of these were locals: one expressed his interest in land at Awaroa; the other a farmer wanting to lease a specific block adjoining his land at Motukotuku.¹¹⁶ The third inquiry came from Wellington. Having been advised of the possibility of leasing land through an old Kawhia connection, and directed to approach the county council by the Secretary for Maori Affairs, Ropiha, one LJ Ell asked about the possibility of acquiring a block, '... say something in the vicinity of 1000 acres For settling my son & brother in law both aged 17 years on a block that could be broken in ...'¹¹⁷ The clerk's response to all three enquiries was enthusiastic, promising to help if need be: 'If you wish the Council to deal with land on your behalf would you please advise. There is no charge levied against the person, either for Court costs, or searching of Maori Land Court files.'¹¹⁸ To Ell in Wellington, Cunneen's response was expansive: 'There are approximately 54,000 acres of undeveloped Maori land in the Kawhia County and of this land 700 acres only has been vested. From your letter I can see that you are interested in acquiring one of these blocks and I suggest that rather than I choose an available section for you it would be in your interest to visit Kawhia when I could devote some time in showing you what is available.'¹¹⁹

In the view of the Kawhia County Council's new chairman, Charles Barrett, undeveloped Maori land and unpaid Maori rates had been the biggest handicap imposed on the county since it was first constituted. Eight months into the job, in December 1952 Barrett reflected on the year's work:

¹¹⁴ Swarbrick & Swarbrick to clerk Kawhia County Council, 8 September 1952, 5/9 Admin. App. for land under S.34...', Waitomo DC; DB:2533-34

¹¹⁵ Otorohanga MB 77/309-10

¹¹⁶ See correspondence in 5/9 admin; application for land under s.34...; DB:2521-32

¹¹⁷ LJ Ell to clerk Kawhia County Council, 4 November 1952, in above; DB:2529-2531

¹¹⁸ Kawhia County Council clerk to RF Braine, 8 January 1953, in above; DB:2522

¹¹⁹ Kawhia County Council clerk to LJ Ell, 8 December 1952, in above; DB:2532

During the year we have been able to take the first steps towards rectifying this position. Under Section 34 of the Maori Purposes Act we have had some 800 acres of this land vested in the Maori Trustee and we hope it will shortly be leased and in the process of development. I think I can safely say that it will be the policy of this Council to push this matter as fast as time and departmental procedure will permit, in an endeavour to get this idle land into production and contributing its share to the maintenance and improvement of our roading system.¹²⁰

The next hearing took place in Kawhia on 21 January 1953.¹²¹ In addition to the four cases adjourned from September, a further 17 new applications were heard. On this occasion testimony by the county clerk as to the state of the land was supported, where appropriate, by the Te Awaroa-Te Kauri riding member, SD Dillon. Swarbrick summed up the court's attitude in his report of the proceedings to the council: 'The Court while giving the Maori owner every opportunity to farm his own land does not hesitate however to make an order vesting it in the Maori Trustee where the owners take no interest in it at all, or where they fail to make any arrangements for farming or leasing it themselves in accordance with the terms of the adjournment.'¹²² In five of the new applications, the failure of the owners to appear in court resulted in an automatic court order. Neither Paki Moke nor Matenga appeared to report on progress since September, and so orders were made for these lands also.

Notwithstanding these cases, Swarbrick also commented on the increased interest shown by landowners, both in terms of hiring counsel to represent their interests, and in their alternative proposals to farm their lands themselves. In two out of three cases, adjournments were given on this basis to enable the owners to organise a formal lease to one of their number. However in another three instances where the land was already being farmed or cropped on an informal basis, the court insisted that this too be formalised, and rather than dismissing the applications on the grounds that the land was occupied, time was given for the owners to organise a 'proper' lease with such occupiers. One Awaroa application was withdrawn when it was discovered it was a pa site. Another was similarly withdrawn because it was being farmed and the rates were paid.

The council was encouraged enough by the results to submit a further 25 applications for hearing over 17-18 March.¹²³ The sitting had been arranged specially for the council's applications, and little other court business was done. Over this two-day period Judge Beechey considered 42 applications. An order

¹²⁰ CF Barrett, nd, Kawhia County Minute Book 5; Digital DB: Local Body Records/Otorohanga DC

¹²¹ Mercer MB 33/57-72

¹²² Swarbrick & Swarbrick to clerk Kawhia County Council, 23 January 1953, 5/9 Admin App. ..., Waitomo DC; DB:2537

¹²³ Mercer MB 33/127-142

appointing the Maori Trustee was made in 27 cases.¹²⁴ In addition to Cuneen and Dillon, Fred Ormsby appeared for the council in his role as rates collector. Once again, the non-appearance of owners resulted in a court order for five of the blocks. The issue of notice was raised by the Court however, and in one case the application was adjourned because the Court deemed that the notice to the owners had been insufficient. In four instances where adjournments had been given to enable the owners to arrange a formal lease, the non-appearance of the owners in March also resulted in a court order.

The Court minutes are brief and reveal little of the forces at work over these two days. However it is clear that questions were being raised as to the legality and/or morality of the council's conduct. The issue of notice was one such concern. By this time too, the Court was at least alive to the issue regarding the council's right to base applications on the grounds of non-payment of rates, in the absence of a charging order. In the aftermath of the hearing, Swarbrick reminded the council of the legislative requirements, although he added that evidence of non-payment of rates could be given as an 'additional inducement' to the Court to make an order.¹²⁵ In a departure from earlier decisions, in two cases the council was forced to withdraw applications for land which was being farmed at Te Awaroa on an informal basis. 'The fact that the person farming the land has not a proper lease is not sufficient grounds on which to base an application under this Act'.¹²⁶ In another case the four owners were all living on and cultivating their land, and the application was withdrawn.¹²⁷ On the other hand, the Court continued to favour the council's arguments by granting orders for land it claimed was not being farmed 'properly'. In the case of Te Awaroa AA1B one of the owners, Turangarau Matini, lived on the land and farmed three-quarters of it well, in spite of having no road access. The council successfully argued that it was in the interests of the owners that the block be brought into full production, which would be possible if Matini had a proper lease. The order was made on this basis, but Swarbrick noted that it was 'rather a borderline case'.¹²⁸ Judge Beechey was later said to have been primarily interested in bringing Maori land into production, his sole consideration being whether the land was efficiently farmed. Counsel representing Raglan County Council during this period described the judge's practice as:

provided he is satisfied that the land is not being properly farmed and that it could be developed and that there would be somebody who might be willing to take a lease of the land, he will make an Order. He has done this in the past even although the Owners concerned have appeared and stated that they wish to farm the land

¹²⁴Raglan County Council clerk to Broadfoot MP, 23 April 1953, 5/9 Admin App..., Waitomo DC; DB:2558

¹²⁵Swarbrick & Swarbrick to clerk Kawhia County Council, 23 March 1953, in above; DB:2547-49

¹²⁶Awaroa A2J3, Awaroa AA1A1, 'Kawhia County Council: Re Alienation of Maori Lands', in above; DB:2550

¹²⁷Awaroa A10A; Mercer MB 33/134

¹²⁸'Kawhia County Council: Re Alienation of Maori Lands', 5/9 Admin App..., Waitomo DC; DB:2550

themselves. The principle that he appears to have worked on is that if the Maoris have not already shown some signs of developing the land they are not likely to in the future and if they are really genuine they could obtain a lease from the Maori Trustee.¹²⁹

Nine applications were adjourned because of the council's administrative sloppiness. In their haste to prosecute, the council had not completed the required title searches. Another was withdrawn because it was an urupa. Again, Swarbrick reminded the council of the merits of preparation and set out a model procedure in which title searches and property investigations *preceded* the decision to put in an application.¹³⁰

One week later the Minister of Maori Affairs withheld his consent to the court order regarding Moerangi 3E2A. This was the 200-acre block on which the Apiti homestead and marae was situated. The property had been a dairy farm 20 years before but the land had reverted. The court order had been made during the first round of Kawhia County applications in September despite evidence that Dave Apiti was living on the land, and the desire of his brother to farm the land himself. The Minister's reprieve was for six months 'on the representation of the owners that they proposed to occupy, develop and farm the area themselves.'¹³¹ The decision was opposed by the council. According to the chairman, 3E2A was the best of four Moerangi blocks which had been similarly vested and which needed to be leased as one unit to attract a lessee. When the block was omitted from the advertisement to lease with the other Moerangi blocks at the end of April, Barrett and Cunneen flew to Wellington to plead their case with the Minister himself.

Barrett claimed that Dave Apiti was a minor owner who was being financially backed by his employer who stood to reap the profits from the land. It seems that the county's prospective farmer had lost interest when the section was not included with the other lands. This was met by Corbett: 'It is written under the law that that an owner must obtain a property offered before any outside person.'¹³² The gist of the council's argument was that lands vested in the Maori Trustee should not be leased singly, but should be offered in economic units and advertised together as such, and that the council, being made up of local farmers, was the best authority to determine what comprised an economic farming unit. While conceding the Moerangi case, Barrett nonetheless obtained the Minister's agreement to future liaison between the

¹²⁹ Tompkins & Wake, 12 February 1954, 5/9 Admin App. ..., Waitomo DC;DB:2587

¹³⁰ 'Kawhia County Council: Re Alienation of Maori Lands', in above; DB:2550

¹³¹ Auckland district Officer to clerk Kawhia County Clerk, 13 August 1953, 5/9 Admin App...., Waitomo DC; DB:2571

¹³² 'Meeting held in Mr Corbett's Office...', in above; DB:2561--65

district officer and the council with regard to offering vested lands for lease. The chairman then pressed on:

We have one or two areas in quite accessible parts of the County which I think will be very useful. They have been vested now and they will go up and I am not sure whether the Department intends to develop them as a unit or whether they will be leased. In other parts of the County, which are more unaccessible, we have got areas of equally good lands which are not so desirable from a leasing point of view to, say, an outsider who would be tempted to take up the land. Would the Department favour the idea that as a Department they could take the more unaccessible and leave the land that could be dealt with by private interest.¹³³

Lands at Rakaunui and Owhiro were given as examples of such isolated areas. In an astonishing admission Cunneen stated that with regard to the 7000-acre Owhiro block, 'it would be practically impossible, even after it is vested in the Maori Trustee, for any European, or even anyone at all, to take it up.' Would the Department be interested in a scheme? The councillors received a non-committal answer for their pains.

The appeal to the Minister was not the end of the matter. In August the council was informed by the Minister that a field officer had been deployed to Auckland to arrange the leasing of vested lands in the district and that, as agreed to in March, he would be in touch. The information prompted the council to write in about the Moerangi lands, and the claim was made that at the meeting in May with the Minister, Corbett had assured them that if no tenders were received for the three other Moerangi blocks, all four would be readvertised together.¹³⁴ Had any tenders in fact been received? Robertson's reply was swift. Since the Minister's veto in March, Dave Apiti had made considerable improvements to the land. He also claimed to have attempted to pay the rates, but maintained this had been refused by the council on the grounds that the assessment in the rates book covered the whole of 3E2. Robertson suggested the council revise its roll.¹³⁵

In the meantime the fourth round of Kawhia County applications was heard at Te Kuiti on 11 May 1953.¹³⁶ Once again, of the 17 applications brought, eight were adjourned as a result of shortcomings in the council's administration: either the search notes were incomplete, or the owners had not been notified, or there was no one to testify as to the state of the land. Another application, Marokopa A1, was withdrawn when it was discovered the sole owner of the land was farming it well. It was at this hearing

¹³³ Ibid; DB:2563

¹³⁴ Kawhia County Council clerk to Auckland district officer, 10 August 1953, in above; DB:2570

¹³⁵ Auckland district officer to clerk Kawhia County Council, 13 August 1953, in above; DB:2571

¹³⁶ Otorohanga MB 78/129-139

that Hauturu West G2/2B2, the 7000-acre block at Owhiro was vested in the Maori Trustee for alienation. The land in fact was already vested in the Maori Trustee, in that he had inherited the trusteeship from the Waikato-Maniapoto District Maori Land Board. The order was made in the absence of both the trustee and any owners.¹³⁷ Three applications for Moerangi blocks on which people were living were adjourned at this hearing so that the Maori Affairs Department could consider the potential for development.¹³⁸

Many of the vested sections were advertised for lease to the owners in October 1953 and, as agreed, to an extent lands in the same geographical proximity were grouped together and offered as ‘lots’ – 15 of them.¹³⁹ Owners were given three weeks to apply. All but one of the lots were re-advertised for lease to the general public on 14 November.

6.2.1 ‘Neglect to farm’: O’Malley’s ruling

Eleven applications were set down for hearing in Kawhia on 19 January 1954 but an adjournment was granted because the council was not ready.¹⁴⁰ The same day however an application was brought by Rora Barrett for the cancellation of a vesting order over his land Awaroa B5/1 of just over 22 acres. The order had been made the previous March. At that time it was stated in court that the land was neither occupied nor farmed, that half was in grass and the balance scrub and weeds. The submission had been corroborated by Fred Ormsby, the rates collector, who added that the rates had been paid recently and that the adjoining farmer would take the lease.¹⁴¹ Barrett was the sole owner of the block. In seeking the cancellation, it was claimed that the land was occupied and farmed; that it was largely free of noxious weeds and the rates had been paid; and that this had been the case when the order was made in March. Barrett claimed that he had intended to appear and object in March, but when he attended on the second day of the advertised hearing, the order had already been made, and the court had risen.¹⁴² George Tata and Charles Stewart, both local farmers, had been using the land on an informal basis for hay and grazing. In order to satisfy the court, Barrett had arranged a formal 10-year lease with Tata, and both Tata and Stewart were in court to support the application for cancellation.

The application was opposed by the council. As Swarbrick later reported, the attempt to cross-examine Barrett about the state of the noxious weeds and extent of farming ‘was largely ruled out by the Court as

¹³⁷ Swarbrick & Swarbrick to clerk Kawhia County Council, 13 May 1953, 5/9 Admin App...., Waitomo DC; DB:2566

¹³⁸ Moerangi 3G7, Moerangi 3G5B & C

¹³⁹ *Waikato Times* 8 October 1953, 5/9 Admin App...., Waitomo DC; DB:2578

¹⁴⁰ Mercer MB 33/258-259

¹⁴¹ Mercer MB 33/138

¹⁴² Mercer MB 33/264

an attempt to exact too high a degree of farming from Maori owners'.¹⁴³ Instead, George Tata was cross-examined by both Swarbrick and the Court regarding his farming experience, his financial status, his living arrangements and his personal circumstances. It was submitted by Swarbrick that the condition of the land as shown in March should be remedied before the order was discharged:

Further the lessee lives some 12 miles away and has not farmed to any extent previously except as a worker for someone else. I submit that this block is not an economic holding and that it is not possible for the proposed lessee to make a living from it. Further that he has little finance and will find it hard to farm it.¹⁴⁴

Judge Gerard O'Malley's decision was given three days later. Taking each of the grounds of the council's submissions in turn, the Court found that as a result of the lease agreement, the land was occupied and further, that it was 'very doubtful' whether an order would have been made in the first place if all the facts had been known to the Court. That the land was uneconomic was discounted as a legal ground for denying the lease. Regarding Tata's lack of experience and finance, the Court considered that on this basis, 'it would debar confirmation of leases to all farm workers, and to nearly all Maoris. The Court knows many Maori farmers who have commenced in a very small way, and are now very successful farmers.' Most significantly, Judge O'Malley considered the argument at the heart of applications based on the land not being farmed 'properly'.

It has to be remembered when considering this question that the land is Maori freehold land, owned by a Maori. It is readily admitted that the general standard of Maori farming is not high, but the Court is of opinion that Section 34 of the Maori Purposes Act 1950 does not require a Maori owner or occupier to farm according to the highest standard of European farming. The Court is of opinion an Order should be made under Section 34 upon the ground of neglect in farming, only when the standard of farming by the Maori owner falls below the standard of the average Maori farmer, so that the land by the presence of noxious weeds or other neglect is a menace to other adjoining lands, and is not contributing by payment of rates to the local body.¹⁴⁵

This pronouncement was a considerable departure from prevailing practice under Judge Beechey, and in the course of the hearing other novel points were made by the Court. Contrary to the council's practice, O'Malley considered that Section 34 should be exercised 'only in extreme circumstances', and that local authorities should consider other legal avenues of inducing Maori farmers to improve their farming, such

¹⁴³ Swarbrick & Swarbrick to clerk Kawhia County Council, 20 January 1954, 5/9 Admin App..., Waitomo DC; DB:2580

¹⁴⁴ Mercer MB 33/267

¹⁴⁵ Mercer MB 33/294

as prosecuting under the Noxious Weeds Act.¹⁴⁶ These opinions sparked media interest and were reported both in local and national newspapers. Judge O'Malley was reported as saying that 'any legislation which would further deprive the Maori of his land would not receive the sympathetic hearing of the Court.'¹⁴⁷ The editor of the *Te Awamutu Courier* decried the ruling: 'In effect, the country is presented with a judge who tinkers with the law, hurls defiance at the Government, and holds idle lands in bondage while he suggests procedures which are so impracticable as to become impossible.'¹⁴⁸ Kawhia County Council too was outraged. Complaining to the Minister of Maori Affairs in early February, the council presented the results of the legislation to date: over 100 applications made, 90 per cent of them successful; 10,000 acres vested; 2300 acres leased by tender. 'To ridicule an Act ... the only Act which has produced any answer to my County towards the dealing with of idle, unoccupied, and weed infested Maori Lands, was a little too much to expect my Councillors to bear without at least passing some comments towards the attitude of the Court.'¹⁴⁹ Corbett was informed of an additional 47 applications awaiting hearing, and asked to bring Judge Beechey out of retirement. To the rest of his council Chairperson Barrett explained that action had been taken for the sole purpose of making fertile land available to farmers, either Maori or European, who were anxious to bring it into production and that many applications for vesting orders had been made at the request of Maori who wished to improve their title. Judge O'Malley, he claimed, 'will prove a great handicap to the development of this County and to any improvements which we had hoped to see in the welfare of the Maori people.'¹⁵⁰

Raglan County Council too, wrote in to complain: 'as the operations of the Act are now apparent to the farmers, this office is receiving fairly constant enquiries about Maori lands which if not lying idle are only held on what might be termed a 'squatter's tenancy'. The demand for land cannot be met and farmers are definitely interested in leases under Section 34.'¹⁵¹ The Minister's response to both councils was ominous: 'Statements such as those that appeared [in] the Press are, as you say, inimical to the proper operation of the provisions of the Act, and also may have the effect of hindering continuance of the good work that is being done. I have taken steps to see that, as far as possible, such statements do not appear

¹⁴⁶ Swarbrick & Swarbrick to clerk Kawhia County Council, 20 January 1954, 5/9 Admin App..., Waitomo DC; DB:2580

¹⁴⁷ Cited in Kawhia County Council clerk to Minister Maori Affairs, 8 February 1954, in above; DB:2581

¹⁴⁸ 'Taihoa. The Native Land Court', *Te Awamutu Courier*, 27 January 1954, in AAMK 869 W3074/394e part 3 12/0; DB:1034

¹⁴⁹ Kawhia County Council clerk to Minister Maori Affairs, 8 February 1954, 5/9 Admin App..., Waitomo DC; DB:2581

¹⁵⁰ 'Reply to Judge O'Malley's remarks...' in Kawhia County Minute Book vol 5; Digital DB: Local Body Records/ Otorohanga DC

¹⁵¹ Raglan County Council clerk to Minister Maori Affairs, 4 February 1954, AAMK 869 W3074/394e part 3 12/0; DB:1033

again in the Press.¹⁵² It proved in fact, to be O'Malley's first and last appearance hearing such applications in the Waikato-Maniapoto court.

6.2.2 March 1954 applications: Judge Prichard's court

At the council's request, another special hearing at Kawhia was arranged in March 1954 to deal with an additional 47 applications.¹⁵³ Judge Ivor Prichard presided over the marathon three-day event. Again, Chairman Charles Barrett, Fred Ormsby, and Sydney Thorn gave evidence for the county council. Houchen, the district officer for Maori Affairs and JA Dye, consolidation officer also took part, reflecting the growing role of the Department in the process. In addition to the Court's truncated minutes of this hearing, a much more detailed account was found in the county records, presumably taken by counsel.¹⁵⁴ This provides a rare insight into the issues at work as a result of implementing the legislation, and the strategies Maori were using to grapple with the threat of alienation. For this reason a number of the applications have been dealt with in some detail in the summary that follows.

Counsel for the county opened the March hearing with a prepared speech aimed at dispelling the 'misgiving and possible misunderstanding amongst the Maori owners in the district as to my client's attitude and policy under this particular Section', but he was cut short by the judge. 'Would it not be better for me to assume that the County is an honest County, prepared to do its best for the Maori people, but that it has its duty as a Council. ... It has a duty to do and at the same time it is sympathetic to the Maoris.'¹⁵⁵ In the event, the judge took this role upon himself. Over the course of the next three days the owners of the numerous blocks of land at stake were reminded by the Court of the rationale for the legal action: 'Well, the County is not wanting to steal land. What the County says is "use it, and if you will develop it then good luck to you" and if you won't then it will be handed to somebody else.'¹⁵⁶ Or, 'explain to him that merely getting ownership of this land is not enough. He must work and develop it'.¹⁵⁷

After all the fuss over Judge O'Malley's ruling it was ironic that the first application to be heard appears to have been based on the contentious 'neglect to farm'. Moerangi 3G3B comprised 71½ acres, said to be half in grass and half in manuka. The block was occupied, in that a number of the owners were living in 'shacks' on the land. The Randall family owners had met and decided to lease the land to a family member, a farmer, so that the rates could be paid. George Randall, the principal spokesman, had travelled

¹⁵² Minister Maori Affairs to clerk Kawhia County Council, 12 February 1954, 5/9 Admin App..., Waitomo DC; DB:2583

¹⁵³ Mercer MB 33/295-344

¹⁵⁴ 'Maori Land Court Sitting at Kawhia', 5/9 Admin App. For land under S.34..., Waitomo DC; DB:2593-2631

¹⁵⁵ Ibid; DB:2593

¹⁵⁶ Ibid; DB:2599

¹⁵⁷ Ibid; DB:2613

from Kaikohe to attend the hearing. From the minutes it is clear that the Court expected the existing occupiers to vacate the land if the lease went through. When Randall shared his intention to build a home on the land and retire there, leaving the farming side of things to his nephew the Court responded ‘That won’t help. It will only bring another family onto the land as far as I can see.’¹⁵⁸ When Randall suggested that it would mean the rates would be paid, the Court responded that the issue was not purely a matter of rates: ‘They say this land must be developed and that we cannot afford to have titree growing on land that is all right.’ To this, Randall pointed out that the land was not an economic farming unit, it was not big enough to provide an independent living. Randall’s nephew, a dairy farmer from Ngaruawahia, was present and cross-examined by both the Court and Swarbrick as to his experience, his finance, and even asked to give a blow by blow account of how he might develop the land. In the result, the order was not made. Randall’s nephew was instructed to obtain a 21-year lease within six months, to make improvements to the land within 12 months, and to undertake substantial improvements within two years – or else the Section 34 order would be made. The case was adjourned.

Aotea South 3D was 154 acres, described by Thorn as ‘beautiful country ... the pick of the County’.¹⁵⁹ Twelve of the 52 owners had been sent notice, and none of them appeared in court. Once again the owners were living on the land, in two houses – a head count of 26 had been made. One third of the block was said to be in grass which was grazed by 30 cattle that belonged to another occupier, who had expressed an interest in development. The rest was in manuka with some weed infestation. The application was adjourned for six months so that the Department of Maori Affairs could consider development. However in January 1955 Houchen reported that development had become a casualty of implementing the legislation: ‘So many sections have been leased spoiled from development point of view.’ The order was made, with the proviso that ‘if an owner does not take the lease a corner should be reserved for where owners to move on’.¹⁶⁰ The land is now Okapu A, part of the Okapu subdivision.

Awaroa A2B2A was described as a ‘very desirable piece of land’ by Barrett. It had been partitioned into four, but the application treated the area, of 51 acres, as one block.¹⁶¹ Barrett made much of the noxious weeds on the land – gorse, blackberry, and a ‘considerable amount of ragwort’ – but Houchen disagreed and said the noxious weeds were not so bad. Some 20 acres was in grass, and a further 15 was said to have been cultivated. The house on the land had been occupied by one of the owners, who had paid half of the annual rates. Recently another owner, Taka Honerata, had taken up residence in the house, and had

¹⁵⁸ Ibid; DB:2594

¹⁵⁹ Ibid; DB:2609

¹⁶⁰ Mercer MB 34/189

¹⁶¹ ‘Maori Land Court Sitting at Kawhia’; DB:2609-2611

begun preparing the land for farming, by discing and grassing an area. Houchen testified that on a visit the week before, Honerata had seemed ‘a bit concerned about paying his rates and wanted to give them to me’ and that ‘He seemed to be very keen to retain the land and farm it himself.’¹⁶² The district officer had advised him ‘to allow the land to be vested and make an application for a lease.’ Honerata was in court and confirmed his desire to farm the block. Once again, a lease was presented as a given: ‘Do you understand you can’t do any good with this unless you get a lease?’ The partition was cancelled and the Section 34 order made. The minutes record that ‘Taka Honerata as owner will apply for the lease. The Court has warned Taka that the mere holding of a lease is not enough, that won’t protect him – he must farm the land efficiently.’¹⁶³

Awaroa B4/4 comprised 118 acres. Barrett testified that 10 acres in rough grass was used as a sportsground. The balance of the land was said to be scrub and noxious weeds. Barrett was also aware of the ponga whare on the land and that ‘people are living in it in very poor circumstances’.¹⁶⁴ None of the owners present in court knew the land and the order was made. Later that day however the application was challenged. Tarahuirua Kerapa stated that the owners had recently held a meeting, and wanted to reserve 15 acres of the block: nine acres, including all of the flat area, to support a new pa and urupa and the rest to use for housing – a papakainga.

Judge: Papa kaingas are dead now. Maoris must have title to their land. A marae is alright, but papa kainga is bad. I won’t make a reserve for a papa kainga. It encourages Maoris to build shacks and never have responsibilities, never have a proper house at all. I won’t grant it. What use is a papa kainga?

T. Kerapa. For the coming generation. So they always have proper places to live in. No-one can let them, no-one can sell them.¹⁶⁵

Judge Prichard also queried the need for the new marae, having established the existence of a marae at Rakaunui four miles away. ‘The question arises as to the desirability of another marae. What does the Welfare Officer say? Does he say that we need another marae or that we don’t. Generally speaking, too many maraes too close together means too many uncared for communal buildings.’¹⁶⁶ Nor could he see the merit in the long-held aspirations for the large marae reserve: ‘This idea of having the 9 acres of flat is alright, but it does not produce any butterfat’, and later ‘The Court does not favour an area of more than

¹⁶² Ibid; DB:2611

¹⁶³ Mercer 33/308-309

¹⁶⁴ ‘Maori Land Court Sitting at Kawhia’; DB:2613

¹⁶⁵ Ibid; DB:2614

¹⁶⁶ Ibid; DB:2615

two acres for the marae. If they have 10, they will rob the block of its best land.’¹⁶⁷ The application was adjourned to enable the owners to partition out a piece for the marae and wahi tapu. In January 1954 the owners present in court agreed to the suggestion that three acres should be portioned off for the marae and urupa, the flats to be leased to the sports club to support the marae. The order was made under Part 25 with the caution: ‘The owners to lease the part of 4B west of road ie the flat or they will end up by losing it not for bad farming but for non-payment of rates.’¹⁶⁸

The Court did not confine itself to directing where landowners might or might not live. Judge Prichard also had firm views on how. In questioning an owner on his proposal to privately lease to a relation, reference was made to the house on the land.

Judge. What about the house on it, an old shack. Are you going to pull it down?

P. Haperou. I don’t know.

Judge. You will have to you know. This is a serious business.

P. Haperou. I think he would live in it on the place.¹⁶⁹

The prospective lessee then explained, ‘Really it is a home belonging to my uncle and auntie and I don’t like to see anybody else getting it. It is an old homestead of the family.’¹⁷⁰

A number of landowners clearly preferred to make their own leasing arrangements, but the Court insisted that such transactions be legal leases and went so far as to insist on the terms. Kawhia B2B was 19 acres of land at Motutara covered in manuka. There were no noxious weeds. Heti Moke, a principal owner of the land, argued in court that the notice had come so suddenly the owners had had no time discuss the matter. His sister spoke of an arrangement for a private lease to an inlaw to which the judge responded. ‘Private leases are no good. They never pay the rates, they never put fences round. They graze it and take the best out of the land. They won’t put manure on the land with a private lease.’¹⁷¹ Moke was particularly concerned about the 75 per cent compensation clause, but he was also mindful of the outcome of another application affecting his land at Oparau, which would have a direct bearing on the owners’ decision regarding Kawhia B2B. As he explained of his brother-in-law: ‘If he can’t get this other land back, he wants somewhere to go.’ He asked the court for an adjournment, for more time to discuss the

¹⁶⁷ Ibid

¹⁶⁸ Mercer MB 34/191

¹⁶⁹ ‘Maori Land Court Sitting at Kawhia’, Te Awaroa A3B2C2D1; DB:2599

¹⁷⁰ Ibid, M Ormsby

¹⁷¹ Ibid; DB:2619

future of the land, but he was fobbed off by the judge. 'It is a while before these things come out. You will have plenty of time to decide, or if you want further time, if you wrote to me I would ask the office to hold it up for a while'. The order was made.¹⁷²

A complaint made later that day by Heti Moke casts a shadow over the judge's reassurances. It appears Moke had just found out that the lease for Pirongia West 1/2F1B2B, 153 acres of family land which had been vested in the Maori Trustee over a year ago on the understanding that he got the lease, had in fact been leased to Patrick Meredith.¹⁷³ Moke had been notified when the lease came up, but a misunderstanding had resulted in the lease going to Meredith. The Judge responded 'I am afraid I can do nothing about this. I can see it is a tragedy, but Heti should have employed a lawyer and not depended on his sister.'¹⁷⁴

Kawhia P8/3A1 was a small area of 4½ acres. According to the owners, this block was part of a larger area that had been leased informally to the Scott family since 1912. When the original Mr. Scott died, his wife took the lease, and on her death, her son. In all of that time the rates were never paid, and when Judge Prichard suggested that the omission was the owners' fault, P Moke stated 'This is the first time the Council have notified us about rates. I have never received any word.'¹⁷⁵ Once again the Court insisted the owners get a 'proper' lease. Other small contiguous areas were dealt with, and the suggestion by the district officer that the lands be amalgamated and leased as one block was acted on. Of concern to the owners however was the provision for 75 per cent compensation for improvements. 'We are very afraid of this 75%. We will never get that land back. It will be a 99 year lease. We could never pay 75%.'¹⁷⁶ It was explained to them that one third of the rental would be kept back to help them pay the compensation, and that the Maori Trustee was bound by statute to lend the balance if need-be. Nine sections were amalgamated to form Kawhia R2C and the owners were given one month to arrange a legal lease, and a further six months to complete it. The case was adjourned.

It is clear from these cases that the Kawhia County Council had been less than vigilant in collecting rates from liable occupiers within the county. Within the county files there is 1950 correspondence from A Whitinui, an owner of two blocks leased to JT King, asking the council to take immediate legal action against the occupier for unpaid rates. The lease was due to expire, and Whitinui had only just found out

¹⁷² A 21-year lease did issue to Pohe Turnbull in August 1955. One acre was subsequently taken for scenic purposes. In January 1966 the land was amalgamated to form part of Kawhia B3.

¹⁷³ 'Maori Land Court Sitting at Kawhia'; DB:2629-30

¹⁷⁴ Ibid; DB:2630

¹⁷⁵ Ibid; DB:2620

¹⁷⁶ Ibid; DB:2623

that King had not paid the last two years of rates.¹⁷⁷ The same file also contains a letter from a FJ Stokes, informing them of a ratepayer ‘who has not had a rate demand for several years’.¹⁷⁸ In addition to a freehold property of 33 acres, the ratepayer was also leasing 200 acres of Maori land.

In court, Kawhia G2A of 23 acres had numerous owners but the land had been grazed by a Pakeha farmer for the last ten years in exchange for a £275 donation to establish a marae. The farmer had not paid rates, and nor had the council prosecuted him because, Swarbrick said, ‘It is difficult to prove occupation’.¹⁷⁹ The sheep had kept the ragwort down to some extent but the land had not been well-looked after. The owners resisted the idea of an order, preferring to sort out a lease agreement themselves. When one owner suggested that the tribe should run stock on the land for the benefit of the marae, this too, was discounted by the judge:

Judge. The difficulty is that some of them might have roast mutton quite often.

M. Wetere. Our pa is slightly run down.

Judge. No, these things never work out. It is far better for you to give a sheep occasionally – communal sheep are no good.¹⁸⁰

Once again, the owners were given a month to arrange a 21-year lease with 75 per cent compensation. If nothing was done within six months, a Section 34 order would be made. The block was subsequently amalgamated as part of G2A1.

Other anomalies became apparent to the Court in the course of proceedings, such as the county council’s collection of rates from Maori. Rates collector Fred Ormsby often gave the Court details of the total owing from three years arrears, finally prompting Judge Prichard to ask:

Judge. What is this three years? What has that to do with it?

Mr. Ormsby. It is the policy of the County Council with native rates. As I come along and find out who the occupier is, if he pays the current rates plus three years arrears, that is the amount the Council laid down would have to be paid.

Judge. It is not the law.

Mr. Ormsby. I am only instructed by my Council.¹⁸¹

¹⁷⁷ A Whitinui to clerk Kawhia County Council, 18 January 1950, 233033 Maori Land; DB:1736-37

¹⁷⁸ FJ Stokes to clerk Kawhia County Council, 19 March 1950, 233033 Maori Land; DB:1738

¹⁷⁹ ‘Maori Land Court Sitting at Kawhia’; 5/9 Admin. Application for land...; DB:2602

¹⁸⁰ Ibid; DB:2604

¹⁸¹ Ibid; DB:2610

The most preposterous application was that for Pakarikari 1B1 – nine acres of lake which had been valued at £25 on account of shooting rights. ‘It is stretching a point to say that the land is not being used to its best advantage in the interests of the owners & in the public interest when the use would be a lease to a duckshooter.’¹⁸² Nonetheless the order was made. The rationale driving the prosecution also becomes thin in the case of unoccupied land that had no access, and therefore no means of development. Such a case was Moerangi 3F, of 320 acres. The land was described as being covered in mostly manuka and light bush. George Maihi, an owner and an adjoining rate-paying farmer, stated that the lack of development was due to the fact there was no access to the land: ‘give me an access and I will develop.’ The Court’s response to this proposal throws into question the justification for bringing the application in the first place:

The Supervisor says it would not pay to develop. If the Department could develop it they would, but the Supervisor says ‘No, it is not good enough’. It is not wonderfully good land. I don’t see how you are going to get it developed. You can’t develop it. The Department won’t. The Supervisor is keen on Maori blocks for development, but he says no.¹⁸³

Three days later Thorn testified for the council that the land would be an economic block on its own. The Court directed the district officer to consider the block for development. If the Department was not interested, the order would be made, but the lease was not to be advertised until access had been prosecuted by the Court. In January 1955 the Maori Affairs Department confirmed it would not develop the land and the order was made on this basis.¹⁸⁴

The March 1954 proceedings have been covered in some detail for a number of reasons. The more or less verbatim account, much fuller than the official record in the Court’s own minute books, give voice to an otherwise silenced party. It gives an insight into the impact of the legislation on real people, dealing with real life circumstances. These applications came out of the blue, against a people who had either moved to the towns for work or were living in marginal circumstances. Maori landowners scrambled to find ways to satisfy the new pressures upon them, turning to relations with farming experience and capital to help, in order to lease back the lands they already owned. In numerous cases the Court orders vested lands on which their very homes stood.

Not least, these minutes open a window into a court process that was both frustrating and humiliating, with little empathy for the aspirations or values of Maori landowners. Mangu Katipa was one of nine

¹⁸² Ibid; DB:2601

¹⁸³ Ibid; DB:2598

¹⁸⁴ Mercer MB 34/193

owners who were notified about Pakarikari 2A block, of 46½ acres. Katipa was not familiar with the land but he took an ill-afforded day off work in Hamilton to defend his interest in the land for his children's sake. This was discounted by the Court on account of the small size of his interest.

Judge. Does your son think you are the owner of the land?

M.Katipa. Yes.

Judge. You say to him, 'Look, my boy, I own less than half an acre in this block.' What would he say then. It might make a difference.

M. Katipa. I have come on the note from the Council. I do not know this land. I have not even seen it.

Judge. I think you are wasting your time. It would be just as easy for your son to lease land anywhere.

M. Katipa. He does not need to lease land. I want him to come to Kawhia. I have land in Awaroa. I am wasting my time if it is only half an acre.

Judge. What do you say to bringing it under development and putting some suitable Maori on it?

M. Katipa. I will put my little bach on it for my fishing.¹⁸⁵

The order was made, and a lease obtained six months later. In 1975 the freehold was purchased by the lessee. It is not known whether HL Smith, the lessee in this instance, constituted 'some suitable Maori'.

Kawhia County was drawing its last breaths – its failure as a self-sustaining local government entity having drawn the attention of the Local Government Commission to investigate amalgamation – but the council did not relinquish the assault. In May 1954 it sought to obtain charging orders on two Maori blocks. The accompanying rates demands were made out to 'Maoris' and 'Mr. J. Pouwhare & Others' respectively. Once again however the council's intention was not backed up with necessary documentation in terms of the condition and agricultural potential of the land, so the matter lapsed. Another batch of 17 applications was prosecuted at Kawhia in January 1955.¹⁸⁶ Many of these had been adjourned from previous hearings. Judge Prichard was again presiding and once again what is most striking is the impact of the legislation in transforming existing tenure – even when the legal basis for the Court orders could not be met. Aotea South 3C1A of 37 acres was occupied and farmed and the owner/occupier had dealt with the noxious weeds. Six months earlier the case had been adjourned so that the Department of Maori Affairs could consider development, but ironically in January it was reported this was not possible because the surrounding pieces had been vested.¹⁸⁷ The remaining statutory ground

¹⁸⁵ 'Maori Land Court Sitting at Kawhia'; DB:2598

¹⁸⁶ Mercer MB 34/188-194

¹⁸⁷ Mercer MB 34/188

was the non-payment of rates, but as stated previously, Kawhia County Council had never obtained charging orders over any Maori land in the county. The lack of legal grounds did not result in a withdrawal or dismissal of the case. Rather, the Court ordained that the existing occupier/owner should arrange to lease or buy his own land.

Difficult to make order if no ragwort but unless Maui Heu does something – no rates being paid he will lose land. Adjid. on understanding that Roy Moke will tell Maui he should call meeting to buy or lease. If not Court will inspect to see what should be done.¹⁸⁸

In January 1956 however, sanity prevailed. Swarbrick, still acting for the by-now defunct council, submitted its intention to discontinue action with the case and informed the Court that the rates had been paid. An owner of the land shared the family's desire to maintain the status quo, to leave their grandmother and her son Maui Heu in occupation. 'They have been there for many years ... land all cleaned and he runs cattle on property.'¹⁸⁹ The case was withdrawn.

The above example, presided over by Judge Bell, holds the first promise of some regard for the wishes of the landowners themselves. It was but an inkling. On the same day the Court considered the adjourned case of Moerangi 3G7, of almost 50 acres. This application had come before the Court every year for the last four years, adjourned initially to enable purchase by an adjoining farmer, and then for the Department to consider development. Thorn had earlier testified that 20 acres was in grass and the rest in manuka and claimed that the noxious weeds on the block were considerable. He had also alleged that the family living on the land were squatters: 'They are not attempting to farm ... I doubt anyone would give this man a lease.'¹⁹⁰ In January 1956 Houchen reported that the owners did not want to come under a development scheme, and that the occupiers 'have their own ideas of what they want to do.'¹⁹¹ Poutu Te Ngaro was in court and his evidence is perhaps the most profoundly poignant encapsulation of the divide between the concepts of manawhenua and ahi kaa of the Maori landowners and the ever-encroaching demands of Pakeha-style tenure.

The reason I am occupying on the land. I was born there. My parents lived there. Te Ngaro te Apa (m) and Rihi Tauwhiti (f). My father was brought up by Poutu Hohua (the biggest owner). My father did not leave a will (5 in family) nor did Poutu Hohua. That is however [h]ow I got into occupation. I am the only occupier with my wife and 9 children. I have been there all my life. I only crop there & run a

¹⁸⁸ Mercer MB 34/188

¹⁸⁹ Mercer MB 35/180

¹⁹⁰ Mercer MB 33/339

¹⁹¹ Mercer MB 35/183

few cattle. I work for E.B. Laimbeer (a farmer of Oparau). I know some other owners – related to me. I am entitled partly to succeed under Tamaki te Poutu decd wife of Poutu Hohua. I desire to continue residence there. I use the whole block. I have not paid rates.¹⁹²

Unlike Maui Te Heu and his grandmother, Poutu Te Ngaro and his family were not left to enjoy the undisturbed possession of their lands. The case was again adjourned to enable Te Ngaro to ‘move on some way to acquire or get tenure preferably by meeting of owners.’¹⁹³ The outcome for the family is not known.

In the four years from September 1952 to January 1956, Kawhia County Council made application for 113 blocks of Maori land, together amounting to 10,729 acres. Of this, orders for almost 8000 acres were made. A list of leased Maori land under Part 25/1953 in Kawhia County is one of the last items in the county file.¹⁹⁴ It contains 28 blocks of land, together 2507 acres, in 16 different leaseholds. Ten of these lessees have recognisably Maori names. The legislation then, came too late to render Kawhia County the Golden Gate of Te Rohe Potae. The disparity between the acreage vested and that leased, together with the county’s attempts to persuade the government into State development of marginal blocks like Owhiro, indicates that there never was any real demand in the county for all of those ‘unused’ acres. The groundwork had been done however, and the huge government investment in road works from the mid-1950s – the buy-off for the council’s acquiescence to amalgamation – would make these vested lands attractive to prospective farmers in times to come.

6.3 Waitomo County Council

6.3.1 Council litigation

As set out in the previous chapter, Waitomo County Council began a concerted strategy to use Section 540/1931 to force the settlement of unoccupied and weed-infested Maori land in October 1949, acting on the advice of the then Prime Minister and Maori Affairs Minister Peter Fraser and encouraged by the local MP Walter Broadfoot and Judge Beechey. Of the six applications heard in February 1950 before Judge Beechey, one was withdrawn on the grounds that it was occupied; one resulted in an order with the owner’s acquiescence; and the other four were all threatened with orders unless arrangements were made for proper occupation, or the clearance of noxious weeds, by the time of the next sitting.¹⁹⁵ These were

¹⁹² Mercer MB 35/183

¹⁹³ *ibid*

¹⁹⁴ ‘Leases of Maori Land, Kawhia County’, 5/9 Admin App ..., Waitomo DC: DB:2647

¹⁹⁵ Pehitawa A10, Te Uira A4, Waitomo A30, Mahoenui A2B2pt, Pukenui B6, Pukenui 2G/1

back before the court in October 1950 before Chief Judge Morison.¹⁹⁶ The application for Pehitawa A10 was contested to the extent that it took up the court's business all of the Wednesday and part of Friday, which meant that the other adjourned cases were deferred. The land belonged to Rangihurhia Moerua, resident of Auckland, who was adamant that the land be neither leased nor sold. Moerua herself was too sick to attend but her husband and two sons were there. It was the family's intention that the land be worked by these sons, Te Whiti and Te Tau Haereiti. Te Whiti was already farming at Hanganatiki, about 5 miles from Pehitawa A10, and had sufficient stock ready to move onto the property to keep the ragwort in check as a first measure. The brothers intended to farm the land in conjunction with the other family holdings in the area. Te Tau had been working in Auckland for many years but had moved down in July as a result of the application and the Court's direction that the land be occupied. The property had no road access. In April, as a result of the council's application, the family applied to the Court for a roadline over adjoining Crown land but the matter had been stood over both then and again in July.¹⁹⁷ At the October hearing Te Whiti argued that legal access was essential not only to their occupation of the block, but to other Maori in the area as well: 'We are all asking for this road to go in as there are many of us who have no road and they all want it they are all working close to one another on different [puas?]. They have no road – They are all willing to help us with the cost of putting the road through.'¹⁹⁸ Smith, a returned serviceman and the Crown tenant on the adjoining land, had fenced across the existing track and wanted to purchase Pehitawa A10. Elliot, stand-in counsel for the owners, maintained that the access issue hinged on when the land – the Lees block – became Crown land and asked for more time to consider the matter.

Both brothers were cross-examined by MacKersey, counsel for the county: the younger as to his farming experience and financial circumstances and the older as to whether he paid rates on his existing farm. In summing up at the end of four hours MacKersey submitted that the county was acting in the public interest, and that the continuing adjournments regarding access were disconcerting. The land had been unoccupied for 20 years and no proper arrangements had been made since the Court's direction in February, he argued. It was the 'height of absurdity' to farm the property in the way the owners proposed – the only reasonable option was to farm it with adjoining land.¹⁹⁹ Chief Judge Morison made the order.

The family continued to challenge the outcome. In February 1951 their application for a rehearing was dismissed by Judge Beechey.²⁰⁰ On this occasion Moerua's husband Te One Haereiti maintained that the

¹⁹⁶ Otorohanga MB 76/302-307

¹⁹⁷ Otorohanga MB 76/191

¹⁹⁸ Ibid, fol 306

¹⁹⁹ Ibid, fol 329

²⁰⁰ Ibid, fol 378

family had had an agreement with Smith to graze the land at no cost in exchange for access over his property. According to Haereiti, within the last three years Smith had ploughed and sowed the land with turnips and grass and used it for grazing. Throughout 1951 the family persisted with their application for a roadline to the property, and were eventually successful. In November 1951 their application for the cancellation of the vesting order was heard.²⁰¹ To meet the demands of the court Moerua now proposed to lease the property to her son Te Whiti, the farmer at Hangatiki.²⁰² The county opposed the cancellation and the case was adjourned until February. By that time, a lease to Te Whiti had been granted and confirmed, subject to the outcome of the application for cancellation, and he was farming the land. The county council withdrew its opposition on condition that the rates were paid, and the order was cancelled.

Throughout 1951 the efficacy of using the provisions of the 1950s legislation was less than certain to the Waitomo County Council. Many of its applications to date had resulted in adjournment, and the order over Pehitawa A10 had been contested. Even where the council had been successful in obtaining orders, by September it was voicing frustration to Broadfoot over the subsequent lack of action: 'If you could speed the procedure in getting these lands occupied, it would assist the local authorities in bringing the matter to some finality, but at the present rate of progress, we appear to be getting nowhere very fast.'²⁰³

Steps were nonetheless taken throughout the year with further prosecution in mind. By the end of May 1951, 11 properties had been singled out for application under Section 34/1950. Nine of these were on the basis of unpaid rates for which there were existing charging orders. The council was aware that many of these blocks were being farmed by the Maori occupier/owners: only two cases were lodged on the grounds that the lands were unoccupied and had noxious weeds, or that the owners could not be located. In June known occupiers or trustees of the blocks subject to application were notified of the council's intention to prosecute unless 'some definite arrangements are made to meet the rates owing.'²⁰⁴ Formal application to the Court was made on 15 August 1951. The council's initiative was encouraged by Broadfoot MP who wrote to the council in September pointing to Raglan County Council's feat at having 19 blocks vested in the Maori Trustee and Kawhia County Council's intention to begin: 'It looks as though a vigorous campaign should bear fruit'.²⁰⁵

²⁰¹ Otorohanga MB 77/139

²⁰² Ibid, fol 140

²⁰³ Waitomo County Council clerk to Broadfoot MP, 20 September 1951, 58/01/2 Maori Land Vesting Orders, Waitomo DC; DB:2280

²⁰⁴ See for example, Waitomo County Council clerk to TM Hetet, 15 June 1951, in above; DB:2269

²⁰⁵ WJ Broadfoot to clerk Waitomo County Council, 17 September 1951, in above; DB:2279

The council's applications were heard in Te Kuiti in November 1951 before Judge Beechey.²⁰⁶ Only six of the 11 were prosecuted at this time, the balance being adjourned. To an extent the recourse to legal action had had the desired result in that a number of affected occupiers agreed to pay the outstanding charging orders.²⁰⁷ In the case of Pukenui B14B which had been farmed by the sole owner for many years the Court order vesting his land in the Maori Trustee had a similar effect: a note in the margin of the minute book records that by November 1952 all rates had been paid and the county council agreed to the cancellation of the order. Four of the blocks had only one owner, giving lie to the justification of the legislation as a means to deal with the difficulties of multiple ownership. Again, in two cases, the Court order was accompanied by a three month respite for the owners to come up with their own arrangements.²⁰⁸

In November 1952 the council began to prepare for another wave of applications for vesting orders: title searches were requested for a further 38 properties.²⁰⁹ It is not clear from county files how lands were selected for prosecution, nor why some of those targeted for title searches were subsequently omitted from the schedule of application. Of the 38 titles searched by its agent in Auckland at 10 shillings a piece, only nine went forward to the court for application the week before Christmas, although in time another five properties on the agent's list were also prosecuted.²¹⁰ To these nine titles were added a further seven properties, making a total of 16 applications for vesting orders to the Court at this time.

In the event, 18 council applications were heard by Judge Beechey on 14 May 1953.²¹¹ In a departure from its earlier focus on productive Maori farming units for unpaid rates, most of the lands targeted by Waitomo County Council for vesting orders on this occasion were either unoccupied or farmed in a subsistence way, although outstanding charging orders and unpaid rates were also used to support the applications. Each block had been inspected by the county's noxious weeds inspector, FN Hayward, who gave corroborating evidence in court. In some cases the owners were present, or represented by Thomas Hetet. Real estate agent, tribal advocate, consolidation officer and one-time county councillor, Hetet's representative role in court – consenting to numerous orders on the owners' behalf – highlights the complexities of relationships operating in the process.

²⁰⁶ Otorohanga MB 77/146-50

²⁰⁷ See for example Waitomo County Council clerk to clerk MLC Te Kuiti, 26 August 1952, 58/01/2 Maori Land Vesting Orders; DB:2282

²⁰⁸ Kaingaika A10, Te Kuiti B4, Te Kuiti B10, Pehitawa A14, Pukenui B14B, Mahoenui 1B2B2. Otorohanga 77/149, see also county clerk to registrar, 16 October 1952, 58/01/2 Maori Land Vesting Orders; DB:2283

²⁰⁹ 'Rate Searches Required re Vesting Orders', 58/01/4 Maori Land searches for court sittings, Waitomo DC; DB:2336-37

²¹⁰ 'Applications for Vesting Orders', 19 December 1952, 58/01/2 Maori Land Vesting Orders; DB:2285

²¹¹ Otorohanga MB 78/147-157

Orders were made for 12 of the 18 applications. In a further five cases, matters were adjourned until August to enable the private alienation of the property. In four cases the blocks were occupied by the Maori owners, living in their homes on the land. One such case was adjourned to give the owners time to organise something ‘definite’ about the farming of the block and in another two instances provision was to be made for the homesteads to be cut out of the order. In the case of three Pukenui blocks, the Maori occupier himself supported the vesting order, wanting a more secure title before investing in development. In the space of a day, orders for the vesting of over 1926 acres of land had been made.

The council was back in court in August following up on six adjournments.²¹² Two of these were struck out, one because the rates had been paid, the other because of an impending sale. Two cases were again adjourned on the council’s request: one case to enable the payment of rates, the other because of an impending sale. In the last two cases charging orders were sought and obtained. One of these blocks, Pukenui B4B, was 457 acres which had been leased as a much larger unit. The Maori Affairs report noted that the larger block had come back to the owners ‘in a bad state’ and that the ‘best parts’ were gone now.²¹³ Hetet added that there was no Maori who would farm the land.

In October 1953 the council began preparations to prosecute another batch of applications which were eventually heard in February 1954.²¹⁴ Like the recorded proceedings of the previous May, the brevity of the Court minutes give little insight into owner arguments or sentiments on the day. Hetet again testified for some of the owners and consented to a number of the orders on their behalf. What is evident is a change in tack by council in terms of the legal basis of the applications. For blocks where previous charging orders had not been obtained, application was made for a charging order in the first instance and then, in the absence of any owner opposition, the council pressed further to have the land vested under Section 34. Where opposition was encountered, the charging order still went ahead but the vesting order was adjourned to give the owners time to make their own arrangements. Ten applications proceeded on this basis, four of these resulting in vesting orders. For the four blocks over which there were already existing charging orders, the county was successful in obtaining vesting orders. One application was dismissed when rates were paid by a part-owner on the spot. Another order for two Pukenui blocks was made at the behest of the Maori occupier and part-owner of the land on the basis that if he got a proper

²¹² Otorohanga MB 79/92-94

²¹³ *Ibid*, fol 92

²¹⁴ Otorohanga MB 78/340-47

lease he would be able to pay rates.²¹⁵ By the end of the day's work vesting orders had been made for nine blocks amounting to over 663 acres.

Kaingapipi 11G2 was one of the blocks for which the council's application for a charging order for unpaid rates resulted in a vesting order. It later transpired that the owner had never received the council's notice of the hearing and she later paid the charging order at the county office and told them of her intention to occupy and farm the land.²¹⁶ Maori Affairs was advised of the development and asked not to proceed with order, but it appears this advice slipped through a bureaucratic gap and in February 1955 the block was tendered for lease. The order was eventually cancelled in August on the basis that the rates had been paid.²¹⁷

Further applications under Part 25/1953 for three Rangitoto Tuhua blocks were heard on 18 February 1955 before Judge Ivor Prichard. Two of these blocks were relatively large: 57A2C almost 175 acres and 61F2B2B2B almost 300 acres. Hayward, the county's noxious weeds inspector reported that all the blocks were in much the same condition – unoccupied, unimproved, some noxious weeds and all 'fairly desirable' for farming.²¹⁸ Part of one block was said to have been let for cropping, with some 15 acres recently sown in turnips. County clerk O'Brien confirmed that owners had been notified of the council's intention to prosecute and added 'These applns do not come out of the blue – we see the owners & tell them to do something.'²¹⁹ The owners themselves do not appear to have been present. The Maori Affairs supervisor considered the blocks suitable for development but nothing had been done about it and in the court's view 'the matter cannot be delayed indefinitely'. The orders were made on the understanding that they would be cancelled within six months if the Department decided to proceed with development.

The next batch of applications were prepared for hearing in August 1955 but on the county's request a number of these were adjourned, at least some on the basis that the owners promised to pay the charging orders, and one was withdrawn. In the event only the application for Pukenui B32 was heard, and an order made on the grounds that the land was not occupied, nor kept free of weeds; that the rates had not been paid and that the owners had neglected to farm.²²⁰ Mackersey drew the Court's attention to the 'little confusion' over the advertisement and notification of the application – it had been advertised and referred to in correspondence as B31 – but on the strength of one owner's opinion that no one had been prejudiced

²¹⁵ Pukenui B30A & B30B, Otorohanga MB 78/345

²¹⁶ Waitomo County Council clerk to Auckland registrar, 4 February 1955, 58/01/2 Maori Land Vesting Orders; DB:2289

²¹⁷ Otorohanga MB 79/38

²¹⁸ Otorohanga MB 79/244

²¹⁹ *ibid*

²²⁰ Otorohanga MB 80/40

by the confusion the order was made. The county solicitor then applied to have the order which had been made on a previous occasion for Pukenui B31 cancelled. It was explained that the application had been intended for B32, and that there were two houses on B31. The vesting order over B31 was cancelled.²²¹

In December 1955, 13 applications were made by Waitomo County Council. Four of these were on the grounds of unpaid charging orders, the other nine on the grounds that the lands was either unoccupied or that the owners had ‘neglected to farm with due diligence.’²²² They were heard in February 1956. At the beginning of the proceedings three of the applications were withdrawn because the rates had been paid and leases were pending.²²³ Adjournments for Aorangi 3C2 and Pukeroa Hangatiki A23 were requested and granted for the same reason. Adjournments for three Hingarangi Kauri blocks were also granted on the promise of the owners to pay the outstanding rates. Two applications for Aorangi blocks, described as ‘good land going to waste’, were adjourned because the notice given to the owners was deemed by the court to have been inadequate. Another block was adjourned in light of the owner’s illness. The application for Aorangi B3D2A7A was on the basis of unpaid rates and neglect to farm. The property had once been a dairy farm and the council was aware that the occupants still lived in the house on the land. Access to the property was described by Hayward as ‘not easy’, comprising of a wire swing bridge over the river. The application was challenged by the sole owner who stated that the farm had been occupied by various children since he had moved into town in 1941.²²⁴ His request for an adjournment was granted. Application on similar grounds for Kaingaika A17 was not challenged and the vesting order was made. In the absence of any owners, an order was also made on the same grounds for Puketiti 2B2C, described as being ‘attractive to adjoining owners’.²²⁵

6.3.2 *Otimi Kiore’s stand*

It was at this February hearing that the council pressed on with its application for Pukenui B38, a 45-acre area occupied by Otimi (Tame) Kiore and his family who, it was said ‘has always refused to pay rates’.²²⁶ Kiore was one of the Ngati Maniapoto kaumatua who had met Corbett at Tokonganui-a-Noho in March 1950. The block was used by both him and his neighbours for grazing. The county had obtained a charging order 18 months before, on which occasion Kiore had been chastised by the Court for his refusal to pay rates – don’t ‘don’t be silly’ – and warned that he could lose his land as a result.²²⁷ The block

²²¹ Ibid, fol 41

²²² Notes from 58/01/2 Maori Land Vesting Orders; not in DB

²²³ Aorangi B3D2A3, 3A, 3C1, Otorohanga MB 80/287

²²⁴ Ibid, Wiari Omipi, fol 288

²²⁵ Ibid, fol 290

²²⁶ Ibid, fol 289

²²⁷ Otorohanga MB 79/94, 10 August 1954

adjoined a number of other Pukenui blocks which had been successfully targeted by the council and were now vested in the Maori Trustee and recommended for lease. Kiore did not attend the February hearing and in his absence Hetet urged that provision be made for the family's continued residence in their home and 'say 2 acres with road access' to be safeguarded by the Maori Trustee. The order was made on this basis. The application for Pukenui B41 followed, some 70 acres described as unoccupied and unimproved and without access, 'surrounded by good European farms'.²²⁸ Kiore was also a part owner of this block and was said to have 'stood out' against the lease or sale of this land which was being grazed with his permission by a Pakeha farmer. One of the 34 owners was in court and testified that some of the owners wanted to sell the block. The application was adjourned, the owners 'to endeavour to arrange lease or sale in meantime.'

The order over Kiore's land was subsequently turned down by Minister on the recommendation of the Maori Trustee. The field officer in Te Kuiti had reported that Kiore would 'strenuously oppose' being put off his land and that difficulty would be experienced getting vacant possession.²²⁹ The Maori Trustee pointed out that a single owner occupied the land, and that 'it does not seem right or proper that the Maori Trustee should be brought in on this matter, mainly on the grounds that the rates are unpaid, at least until the County Council has shown that it has exhausted any other legal remedy it might have. There is no evidence that the Council has taken any proceedings against the owner.'²³⁰ The recommendation was challenged by the Minister, who queried what other redress was available to the council, if a charging order had been made and the rates were unpaid. 'The County Council might try to lease but the tenure is so poor as to preclude anyone from being interested.'²³¹ In response, the Maori Trustee pointed out that the council could sue Kiore in the ordinary way, and target his chattels for the non-payment of rates, and use the noxious weeds legislation to the same purpose. 'The practical basis for the enactment of the Part XXV legislation was to meet the case where owing to a number of owners ordinary proceedings could not be taken.'²³² Going by the comments pencilled on this memo, the Minister was not entirely convinced, but his approval of the order was withheld.

Waitomo County Council was not impressed: 'It is certainly a bit tough when the Maori Land Court grants an order, and the Minister of Maori Affairs tells us baldly that he does not intend to comply with that order', Councillor JM Somerville reportedly stated to the council's September meeting, and

²²⁸ Otorohanga MB 80/290

²²⁹ Te Kuiti resident officer to Auckland district officer, 12 January 1956, MA 1 245 12/1185; DB:142

²³⁰ Maori Trustee to Minister Maori Affairs, nd; in above; DB:144

²³¹ Note on above, 12 July 1956

²³² Maori Trustee to Minister Maori Affairs, 16 July 1956, in above; DB:145

Chairperson Lee agreed. 'It means there is a flaw in the legislation which can nullify the efforts of the Council and the Order of the Maori Land Court'.²³³ The Minister of Maori Affairs was asked by the council to explain: 'The owner of this property has been responsible for the Maoris in that locality not paying their rates and it was necessary for my Council to take action under Section 387 of the Maori Affairs Act 1953, in order to bring some of this good land into production.'²³⁴ According to the council, Pukenui B38 was a key section to the area, and the appointment of the Maori Trustee as agent would have enabled two dairy farms to be leased on behalf of the Maori owners. The council also approached the local MP, DC Seath about the matter. Again B38 was described as the key area to a larger block of 300 acres, part of which the Maori Trustee already had up for lease, and Tame Kiore as 'really responsible for the Council having to take this action as he has stopped the Maori owners from paying rates.'²³⁵

In response, Corbett pointed out that the statutory powers were of an extraordinary nature, normally justified by the fact that normal procedures for collection could not be utilised. Because Kiore was the sole owner of the block and had stock and chattels on the land, there seemed 'at least a possibility' that the council could recover its rates by direct action 'in the same way as any other debt.' Furthermore according to Maori Affairs staff, the exclusion of the block from leasing would not affect the disposition of the other vested lands. Lastly, the Minister pointed to the political reality of forcing the point: 'There are obviously serious practical difficulties involved in putting anyone in possession of a property in cases such as this, and, although those difficulties must, in certain circumstances, be accepted, I feel justified in avoiding them if any other course is open.'²³⁶

Otimi Kiore was described by the Te Kuiti field officer as 'a real Maori in the sense that he understands very little English and understands less about Pakeha laws'.²³⁷ Over 60 years old at this time, an 'energetic' Kiore still cut hay each year from his land to feed his livestock in winter. In November 1956 his small farm was said to be 'clean and looking particularly well', and he appeared enthusiastic about the prospect of developing the combined family holdings at Pukenui under Maori Affairs auspices, particularly with his two adult sons in mind. The challenge he posed with his uncompromising refusal to pay rates was brought to an end with his death in 1958.

²³³ 'Minister Refuses to Approve Land Court Order to Vest Maori Land', *King Country Chronicle*, 18 September 1956, in above; DB:147

²³⁴ Waitomo County Council clerk to Minister Maori Affairs, 19 September 1956, 58/01/2 Maori Land Vesting Orders, Waitomo DC; DB:2298

²³⁵ Waitomo County Council Clerk to DC Seath MP, 24 September 1956, in above: DB:2299

²³⁶ Minister Maori Affairs to clerk Waitomo County Council, 26 October 1956, in above; DB:2300

²³⁷ Field officer report, 14 November 1956, MA 1 245 12/1185, ArchivesNZ Wgtn; DB:148

In the 18 months following the February 1956 applications follow-up action regarding the adjourned cases was taken but no new applications were lodged. In May 1956 the council was back in court pressing for charging orders against two Hingarangi Kauri blocks which had been adjourned in February on the promise of rates payments which had not transpired. Hine, counsel for the owners, consented to the charging orders 'on the understanding no further order for 6 months.'²³⁸ Two years rates, plus the 10 per cent penalty, plus the court costs were charged against the blocks. In February 1957 and again in May, the remaining applications before the court were struck out at the county's request, having been informed by the district officer of Maori Affairs that the Department had begun steps to have the Aorangi blocks brought under development.²³⁹

After a break of five years, in January 1962 Waitomo County Council made application for vesting orders for a further three blocks: Maraetaua 3B1B, Te Kumi A22 and Aorangi B3D2A2, the last of these on the grounds of noxious weeds infestation.²⁴⁰ The outcome is not known.

Between 1949 and 1956 Waitomo County Council made application for at least 83 blocks of Maori land. Most of these were applications for vesting orders, although a handful were for charging orders as a first step. An additional 27 blocks were also forwarded to Auckland for title searches by 1952 with vesting orders in mind. Just why these properties did not proceed to prosecution has not been established in every case, but there is evidence that in some cases the council's threatened legal action produced the desired result in the payment of rates. It can be argued then that the council's implementation of the 1950s vesting legislation affected the Maori owners and occupiers of 111 parcels of land. Orders for over 36 blocks were made as a result, although a number of these were subsequently cancelled.

The lands initially targeted were revenue-producing farms occupied by Maori farmers, and indeed the overall impression from the record is that the Waitomo County Council was primarily interested in achieving the payment of rates, and used the legislation as the stick to get Maori to pay up. Numerous applications were adjourned at the council's request as a result of promises to pay, and withdrawn altogether when payment was made.²⁴¹ The flip side of this was that at every step Maori owners and occupiers were threatened with further action unless payment was made and, in the case of unoccupied

²³⁸ Otorohanga MB 80/292

²³⁹ Auckland district officer to clerk Waitomo County Council, 1 February 1957, 58/01/2 Maori Land Vesting Orders; DB:2302

²⁴⁰ Waitomo County Council clerk to Auckland registrar MLC, 23 January 1962, in above; DB:2305

²⁴¹ See for example Waitomo County Council clerk to clerk MLC, 26 August 1952, 4 November 1952, in above; DB:2282, 2284

land, ‘definite leases’ were arranged.²⁴² As suggested above, Waitomo County Council’s approach accounts both for the discrepancy in the number of blocks prepared for litigation by way of title searches and that actually prosecuted; and for the number of applications which were subsequently withdrawn. It should also be remembered that the court litigation was but one, albeit the fiercest, pressure on Maori to pay. Throughout this period the county also continued to approach Maori Affairs for rates payments on units under its control (and individual farmers deemed able by the Department to meet their own rates) and was successful in obtaining dairy farmers’ agreement to having rates deductions made from their cream cheques.²⁴³

6.4 The Counties of Otorohanga, Taumarunui, Waipa

Applications by the Otorohanga County Council drawn from the Maori Land Court minutes are set out in Appendix 2. At least 43 blocks of land were the subject of application by the council between May 1951 and August 1957, with most of the prosecution occurring before Judge Beechey in 1953. At least 25 orders appointing the Maori Trustee as agent for the purpose of alienation were made as a result. The county’s noxious weeds inspector had a significant role in the proceedings and indeed the minutes suggest that the council was primarily motivated by the issue of noxious weeds, although numerous undeveloped blocks were also targeted on the grounds of neglecting to manage with due diligence. In opposing an application for cancellation over one such order, the county solicitor claimed that the council had made comparatively few applications over Maori lands in the district, all of them had been made after a report by the noxious weeds inspector, and all of the vested lands had subsequently been taken up.²⁴⁴ While the council may have been more circumspect in using the legislation, a perusal of the court minutes shows that the same sorts of issues were at play: orders made in the absence of owners; orders made for lands which were occupied; orders made for lands which did not pose a threat in terms of noxious weeds but would be ‘readily taken up’.

Taumarunui County Council brought at least 23 applications, six of these concerning Rangitoto-Tuhua blocks. Although falling outside the Inquiry District, Ohura South blocks affected by application have been included in the schedule. The relatively few applications may be as a result of the county-wide exemption of Maori land from rating rolls, discussed in Chapter 7.

²⁴² See for example correspondence regarding Pukeroa-Hangatiki A23, 58/01/7 Maori Land Rating, Waitomo DC; DB:2387

²⁴³ See for example Waitomo County Council clerk to E Koroheke, 13 August 1953, and district officer to clerk, 12 October 1953, in above; DB:2383-84

²⁴⁴ Rangitoto Tuhua A60B, 18 August 1954, Otorohanga MB 79/119

Founded as it was on confiscated land, it is to be expected that Waipa County Council's utilisation of the legislative provisions would have been relatively minor. In fact, applications were heard in August 1957 for three blocks on the western slopes of Kakepuku, some 282 acres adjoining the scenic reserve.²⁴⁵ The land was described as a scrub and fern covered tract in the centre of a rich farming area. A dilapidated whare was on the land, and an area had been used for cropping potatoes. The case was adjourned and the outcome is not known.

A table within the Maori Affairs Head Office file, bearing a pencilled-in date of May 1955, gives a preliminary indication of the extent of land alienation wrought by the legislation. The fact that 100 of the 112 leaseholds (12,703 of the 13,323 acres), and 7 of the 8 sales (134 of the 136 acres) were in the Waikato-Maniapoto district confirms the fact that the legislation was primarily implemented in Te Rohe Potae.²⁴⁶ In terms of the county councils of Te Rohe Potae, this early survey also reflects a number of trends that have been identified in this narrative.

County	Leased (acres)		Sold (acres)	
	To Maori	To Pakeha	To Maori	To Pakeha
Kawhia	23 (2108)	13 (940)	-	-
Otorohanga	1 (44)	8 (636)	-	2 (18)
Raglan	4 (591)	26 (5029)	1 (48)	1 (20)
Taumarunui	3 (521)	5 (684)	-	1 (10)
Waitomo	6 (538)	6 (643)	-	1 (27)

It is to be expected that the 1953 amendment providing for the sale of farmable land once efforts to lease had failed, would have increased the proportion of sales to leaseholds. The legislative innovation directly contradicted the Minister of Maori Affairs' assurance two years before, that the preservation of the fee simple would not be violated by the National Government (see 6.1.2). In the absence of any comprehensive survey however, it is difficult to quantify the impact of the legislation in terms of alienation.

6.5 Maori Reaction

6.5.1 Private arrangements, payment of rates

²⁴⁵ Kakepuku 9B8/2A, 2B and 2C, Otorohanga MB 81/250

²⁴⁶ 'Properties Dealt With Under Part XXV ...', AAMK 869 W3074/394e part 3 12/0; DB:1041

²⁴⁷ Ibid, rounded to nearest acre

The threat posed to Maori title by the 1950s legislation produced a variety of reactions amongst the landowners themselves. For those in a position to do so, perhaps the least documented response was to comply: to pay the rates due and to organise a private lease before the matter got to court. Both a marked increase in rates collection and what it termed as ‘land consciousness’ – the incidence of private leasing arrangements – was celebrated by the Raglan County Council in May 1952. The increase was directly attributed by the council to Section 34 of the Maori Purposes Act 1950. In January 1954 the Kawhia County chairman similarly attributed a more modest increase – from 10 to 27 per cent – to the council’s action under the Act.²⁴⁸ In the same way, the large discrepancy between the number of titles prepared for prosecution by the Waitomo County Council and the number of applications eventually lodged, is to some degree a measure of Maori compliance. ‘The Council will withdraw its application...’ affected owners were told ‘if some definite arrangements are made to meet the rates owing.’ On the basis of the number of properties that did not proceed to trial, some 25 per cent of Maori owners did so. Furthermore, of the 83 blocks prosecuted in court by Waitomo County Council, 28 cases were withdrawn or struck out at the request of the county. Ten cases because the rates had been paid, four because a lease was pending, and a further four because of both. In another seven instances the reasons behind the request were not given, but in at least two cases the county sought a cancellation because of an impending sale. On the face of it, the fact that one third of the applications were cancelled in this way indicates that for the council, the stick-approach was working – Maori were paying rates and rearranging tenure to enable continued payment. However the council’s approach can also be seen as a canny undermining of the 1950s legislation by by-passing the Maori Trustee altogether. Once orders had been made and the Minister’s consent obtained, it was the Maori Trustee who was legally responsible for the considered alienation of the land. By obtaining an order, and then applying for its cancellation in light of a lease or sale or exchange, the county effectively speeded up a process it had criticised from early on as being too slow. It is difficult to gauge how proactive the council was in organising such arrangements, but it is clear that it continued to exert considerable pressure on Maori to lease, threatening further legal action at every step, and facilitated alienation when it could. With regard to Ototoika B7 for example, the council agreed to a request from an interested buyer to adjourn the application to enable the completion of the sale.²⁴⁹

An alternative response – to ignore the proceedings altogether – is even more difficult to gauge. This was identified by Maori Land Court judges as past practice in the face of court action a generation before, but it is impossible to determine to what extent the non-appearance of owners in court in the 1950s litigation

²⁴⁸ ‘Reply to Judge O’Malley...’, Kawhia County Council Minute Book vol. 5; Digital DB: Local Body Records/Otorohanga DC.

²⁴⁹ Waitomo County Council clerk to Earl et al, 1 May 1956, 58/01/2 Maori Land Vesting Orders, Waitomo DC; DB:2297

is attributable to passive resistance. The results of this strategy are more clear-cut, for the non-appearance of interested owners in court invariably resulted in an order. Based on the minutes of the court proceedings, 85 of the 197 orders – 43 per cent – were made in the absence of the affected landowners.

A number of landowners challenged the application in court, or appealed against the order either in court or to the Minister of Maori Affairs. This chapter has detailed numerous instances of owner opposition to the orders articulated in court. Few, if any, objections succeeded unless the conditions set out in the legislation were met by the owners. The rates had to be paid, leases or sales arranged, noxious weeds cleared. In which case, it could be said, the outcome was the same. ‘Occupation’ in essence meant profitable, economic farming. Subsistence living including the cultivation of land and the keeping of house cows and beef cattle was not sufficient to meet the standards applied by the court. Moreover, private lease agreements were also disallowed under Judge Prichard, and landowners strong-armed by the process into accepting the standard 21-year term lease with compensation for the lessees. To challenge the application by insisting on the right to farm their own lands, owners were subjected to demeaning cross-examination by the county and the court about their financial means and farming experience.

It is also apparent that a number of Maori owners and occupiers attempted to use the system for their benefit. A number of occupiers previously operating under informal arrangements sought Court orders because the security of a 21-year lease would enable them to farm the land more intensively. Although the wishes of the owners were generally noted regarding prospective family members as lessees, the Maori Trustee was bound by the same legislation to ensure the ‘suitability’ of any applicant for lease, in terms of farming experience and capital.

6.5.2 Formal representations to the Minister

In addition to the remonstrations of individuals in the courtroom, representative formal objections were also voiced on occasion to the Minister of Maori Affairs. The objections to Section 34/1950 articulated by Winiata on behalf of the people of Waikato Maniapoto to the Minister on the eve of Raglan County Council’s inaugural prosecution under the Act is a case in point. Both Winiata and Te Puea Herangi called for the issue of unproductive land to be dealt with by representative tribal committees rather than through prosecution. These appeals were taken seriously, in that they emanated from recognised tribal authorities to which no less than the Under-Secretary for Maori Affairs personally responded, but the essence of the objection to the confiscatory nature of the legislation and the call for Maori control was not. The Minister declined to intervene in the hearing and the committee idea was conceded to only to the extent of liaison. Although steps appear to have been taken to keep this ‘Owners’ Committee’ abreast with developments regarding departmental decisions, there is no evidence that this arrangement endured beyond 1952.

A similar protest was voiced in February 1953 by George Turner, writing as an elder of the Ngati Maniapoto tribes.²⁵⁰ Turner had been witness to Corbett's pledge in March 1950, that the ownership of Maori land would not be interfered with while he was Minister of Maori Affairs (see 5.1.2). His appeal to Corbett was made in the throes of the Land Court's litigation of the legislation which Turner claimed had the 'vicious result that Maori ownership of land is now in jeopardy' and his immediate concern was to have the proceedings adjourned. Notwithstanding his poor opinion of past results of government meetings ('We have had Representatives of the Govt. visiting us at various times & advising on the changes & effects & our suggestions have never been considered but completely ignored.'), Corbett was nonetheless invited back to meet with Ngati Maniapoto at Te Kuiti as soon as possible to hear their concerns in person.

The Minister's response was again swift, but unsatisfying. Corbett was unable to visit but Turner was assured that the legislation 'does not jeopardise ownership of Maori land.'²⁵¹ It was assumed that Turner's grievance arose from a lack of information, and an explanatory letter was prepared by the Under-Secretary setting out the provisions of Part 3. Having done so, the Minister concluded 'I think you will see from all this that every effort is made to protect the interests of the owners while bringing the land into effective production as soon as possible', and, again, 'One of the principal advantages of the whole system is that land which in most cases is lying idle and producing absolutely nothing for the owners is brought into production and made the source of revenue which is often considerable and always based on an up-to-date valuation.'²⁵²

Turner and 'the King Country Maoris' remained unconvinced and when the Minister visited the district on the invitation of local bodies in April 1953, Turner sought an audience with him where the same misgivings were expressed: that the Act was a measure to alienate Maori land.²⁵³ As a result, the Minister's second attempt at explanation was set out 'in a little more detail.'²⁵⁴ The existence of a large number of unoccupied and unproductive lands was stated to be of national and even international moment, 'particularly in the light of the world shortage of food'. In draft form, the explanation continued 'The desire of the Government, and the outcry of the people was that this unoccupied and idle land should be brought into production'. In the copy George Turner received this had been amended to a much more inarguable 'It was obviously necessary that this unoccupied and idle land should be brought into

²⁵⁰ G Turner to Minister Maori Affairs, 9 February 1953, AAMK 869 W3074 395d 12/0/9; DB:1050-51

²⁵¹ Minister Maori Affairs to G Turner, 10 February 1953, in above; DB:1052

²⁵² Minister Maori Affairs to G Turner, nd, in above; DB:1054-55

²⁵³ Minister Maori Affairs to Under-Secretary Maori Affairs, 14 April 1953, in above; DB:1053

²⁵⁴ Minister Maori Affairs to G Turner, 4 May 1953, in above; DB:1059-60

production.’²⁵⁵ Once again the provisions of the legislation were set out: the protection afforded to owners by an open court hearing, and the fact that in approving the orders made by the court, the Minister of Maori Affairs ‘takes all the circumstances of the case into account and naturally gives proper consideration to the best interests of the Maori owners.’ The legislation cut through the difficulties of multiple ownership, the Minister maintained, without interfering with the owners’ freehold rights, and in short:

the legislation has been introduced as much in the interests of the owners themselves as in the interests of increased production. Idle lands are of no benefit to the owners or anyone else, and the method which has been devised of bringing them into production also has the effect of making them produce revenue for the owners. It seems to me that the owners of land which is lying idle have nothing whatever to lose and a very great deal to gain from the legislation.²⁵⁶

On more than one occasion landowners used existing tribal committees to advocate on their behalf. The Haareiti family’s opposition to the order over Pehitawa A10 and their plan to farm their own land, discussed above at (6.3.1), was supported by the Hangatiki Tribal Committee, although this carried little weight with the Court.

In April 1958 the Rakaunui Tribal Committee at Hauturu (not to be confused with the Rakaunui Komiti Whenua of Raglan discussed below) took up the cause of Mac and Kiriwai Jerry, who objected to the Maori Trustee’s lease of Awaroa A2B2A to a Pakeha farmer, Patrick Meredith. Mac (Mau) Jerry was a part-owner of the 51-acre block, who successfully farmed three small adjoining properties under Maori Affairs supervision. He had tendered for the land when it was first advertised for lease to owners in 1954 but the lease had instead been granted to the owner in occupation at the time. When that arrangement fell through two years later, rather than consider the Jerrys’ tender, or re-advertise among the owners, the Maori Trustee had instead granted the lease to Meredith, on the strength of a recommendation from the Otorohanga County Council.

Despite the favourable recommendation from the Department’s resident officer, the situation was not rectified and in April 1958, the matter was brought to the Minister’s attention by NS Windsor, secretary of the Rakaunui Tribal Committee. In addition to the Jerrys’ complaint, Windsor also raised the issue of whether provision had been made in the lease for the continued occupation of a resident family in the cottage on the block. On 1 May a further letter from the committee expressed concern at the improvements being made by Meredith: ‘to the people on the spot it seems as though every effort is being

²⁵⁵ Ibid

²⁵⁶ Ibid

made to put the block out of financial reach of Mau Jerry.²⁵⁷ In response to the resulting ministerial inquiry, District Officer AE Edwards claimed that Jerry's application had been considered, but had been turned down on the grounds that the Jerrys had more than enough land and development work to contend with.

This office has always endeavoured to give owners every opportunity to farm lands which have been brought under the provisions of Part XXV/53 but it has always borne in mind that the legislation requires the land to be not only occupied but farmed to the best of ability by any lessee.²⁵⁸

He also maintained that the direct approach to the county council was justified because of the delays associated with the original lease. The date of lease to Meredith was the same as the original objection reported by the resident officer at Te Kuiti who by contrast, spoke highly of Jerry's development to date. Overtures by the Department to Meredith to relinquish the lease had not been successful. Head Office officials were caught off-guard about the occupation of the block. In a pencilled file note the Secretary for Maori Affairs EA McKay asked 'If our officers inspected the land for the Court why did they not report the occupancy of them? What provision has been or is being made to protect the occupancy of the Maoris living on them? If not have they alternative accommodation.'²⁵⁹ In fact, the Kato family had been living on the block for 15 years.

In the Minister's response to the Rakaunui Tribal Committee, it was claimed that the Department 'appeared to have no alternative other than to lease the block to a suitable pakeha and this course was followed.'²⁶⁰ Nash also distanced the Department from any responsibility to provide for the existing occupiers of the land. When the occupier failed to go through with the lease, it was argued, he gave no indication that he intended to continue to live on the land. The Department would however see if it was possible to have the cottage and surrounding area released from the lease. As to Meredith's improvements, he was the legal lessee and the Department could not interfere with his occupation.

This response was replied to in turn. 'Perhaps I did not make myself very clear' the secretary wrote, and then set out the basic concerns of the tribal committee:

1. Maori land was taken over under the Act without proper regard to the owners of the land whose interests, surely are paramount.

²⁵⁷ Windsor to Minister Maori Affairs, 1 May 1958, AAMK 869 W3074 405e 12/1114; not in DB

²⁵⁸ Auckland District officer to Head Office Maori Affairs, 30 April 1958, in above; DB:1114

²⁵⁹ Note on file, 15 May 1958, in above; DB:1115

²⁶⁰ Minister Maori Affairs to Windsor, 26 May 1950, in above; DB:1117-18

2. No provision was made for the family (Mr and Mrs R Kato and about 4 children) which was occupying the cottage on the south-western portion of the property. This matter should, in the opinion of the committee, have been settled before the lease was granted.²⁶¹

In response to the Department's assertion that the Jerrys, on their 190 acres, were deemed to have sufficient land, the committee pointed out that Meredith was a manager of a big farm, a local stock agent of a big firm, and the lessee of several hundred acres in the district. 'If the Department felt that Mr Mac Jerry had enough land would it not have been the right thing to give other owners, who, because of Taka's original application had not tendered, the opportunity of getting a lease?'²⁶²

To which the Minister replied:

It is not correct that the land was brought under the provisions of Part XXV of the Maori Land Act [sic] 1953, without proper regard to the interests of the owners. The procedure for the making of orders under Part XXV provides safeguards, and in this particular case all known owners were notified that an application was to come before the Maori Land Court, and no opposition was expressed to the making of an Order.

As to the complaint that no provision was made for the housing of Mr and Mrs Kato and their family who are occupying the cottage on the property; these people are, strictly speaking, no worse off than they were before the section was taken over. They had no tenure previously, and they still have no tenure. Still, it appears that the lessee is willing, provided he is compensated for the improvements he has made, to agree to three acres around the cottage being partitioned out for the owner, Mr Taka Honerata. This case is being looked at with the idea of approaching the Court for a partition.²⁶³

The Rakaunui Tribal Committee, to be expected, took exception to the Minister's interpretation of events and circumstances. In a further letter they described the Department's administration of the affair as 'high-handed authoritarian actions reminiscent of Nazism where the rights of the individual were ignored' – strong words in 1958.²⁶⁴ In the fall-out from the correspondence, district office staff attempted to justify their actions with retrospective references to court minutes of the original vesting, and arrangements were continued to have the cottage section, which incidentally had been a separate subdivision at the time of the order, reinstated. The last word of the Minister about the failure of the Department to re-offer the land to the owners for lease after the failure of the first arrangement was that it wasn't necessary – they had

²⁶¹ Secretary, Rakaunui Tribal Committee to Minister Maori Affairs, 19 June 1958, in above; DB:1121

²⁶² Ibid

²⁶³ Minister Maori Affairs to Windsor, 22 July 1958, in above; DB:1124

²⁶⁴ Rakaunui Tribal Committee to Minister Maori Affairs, 16 October 1958, in above; DB:1125

had their opportunity and it was important to get the property into use without further delay.²⁶⁵ The file does not reveal how the dispute over the lease to Meredith was resolved. Some time after Awaroa A2B2A was leased to an RT Takiari, and in 1971 the lessee purchased the freehold.

6.5.3 *'Subversive' challenge*

In 1958 Maori began to organise to challenge the fundamental system of government control over Maori lands and resources. Inspired locally by a Taupiri resident Takiwaiora Hopa, and part of the grassroots Te Kotahitanga movement, disinherited landowners in specific localities formed themselves into 'Komiti Whenua' to press for the free and independent control of their remaining lands, timber, shingle, fishing and mineral rights. Within Te Rohe Potae these included the Komiti Whenua of Rakaunui (Raglan), Taharoa, Te Akau, Te Whaanga and Ngati Te Wehi, all of whom, between July and December 1958 wrote to the Minister of Maori Affairs – now Walter Nash – advising him of their establishment and calling for empowerment to administer their lands.²⁶⁶ Each komiti of 12 members had an 'elder controller' or 'Te Mua', and a chairman, vice-chair, secretary and treasurer. These various land committees had issues that were specifically local, but they shared common cause in claiming that the Maori Affairs Act 1953 in general was destroying their ownership rights to their land, and effectively rendering them landless. The Komiti Whenua called for the release and restoration of blocks taken under Part 25, but equally challenged Maori Affairs development under Part 24. Particular exception was taken to Section 390, which was described as 'a dangerous and high explosive for the confiscation of Maori lands':

It shall not be competent for any owner to revoke the agency created by an order made under the foregoing provisions of this Part (XXV) of this Act, nor shall the death of the owner terminate or in any way affect any such agency.

The divergence of views over this Section is a good example of the chasm between Maori landowners and the Minister in charge of Maori affairs. Nash and the department officials under him, found the preoccupation with Section 390 inexplicable. As the Minister explained to his colleague Ratana MP, the section was insignificant, a technicality, put in 'merely to save any question being raised about the Maori Trustee's right to act.'²⁶⁷ For the proponents of Komiti Whenua on the other hand, as indicated above, the Section was considered to undermine Maori land ownership. 'You state that land leased under Part 25 still remains in the ownership of the owners' Wetini Tuteao told the Minister in September 1958, 'but if you will refer to Section 390 of Part 25, you will see that so long as this Section remains in force the Maori

²⁶⁵ Acting Minister Maori Affairs to Windsor, 20 November 1958, in above; DB:1128

²⁶⁶ Correspondence in AAMK 869 W3074 395d 12/0/9, ArchivesNZ Wgtn; DB:1061-1093

²⁶⁷ Minister Maori Affairs to IM Ratana MP, 26 June 1958, in above; DB:1061-62

owners are practically divested of their ownership rights, as they have no control while the Maori Trustee is agent.’²⁶⁸

Criticisms by Komiti Whenua of current Maori Affairs and Maori Trustee administration included lax supervision, not informing owners about the status and terms of leaseholds, failing to distribute revenue and intimidation. A common grievance was the right to control and cut timber on their own lands for their own housing purposes. A number of Komiti Whenua, including that of Taharoa Kiwi, expressed their opposition to current proposals by the Runanganui at Taupiri (involving Dr M Winiata) regarding the Taharoa ironsands, which suggests a level of grassroots dissatisfaction with existing Maori leadership. Department officials, as discussed below, were quick to point out that Hopa had no ‘mana’ in terms of established traditional lines.

Nash’s initial reaction to the challenge as Minister of Maori Affairs followed that of his predecessor: an explanation of the provisions of the Act would suffice to put the criticisms to rest. This was drafted in June by Under-Secretary EA McKay in response to the initial complaint about Part 25 made on behalf of landowners at Taupiri by IM Ratana MP, and repeated and refined to Komiti Whenua when the barrage of correspondence began the following month. ‘I think you are misunderstanding the purpose of Part XXV...’ Wetini Tuteao of the Rakaunui Komiti Whenua was told, ‘This legislation is designed to cope with the problem of Maori land which is unoccupied or neglected, or is infested with noxious weeds, or is subject to charges for unpaid rates or similar liability.’²⁶⁹ In other words, the Minister went on ‘no action is taken ... until it is established that the owners themselves have failed to discharge their obligations in respect of land, which is being allowed to lie useless or become a nuisance to surrounding lands.’ The Minister pointed out that such provisions were not new, that the powers of vesting for lease lands infested with noxious weeds dated back to 1909. Furthermore, Nash argued, the ‘safeguards’ to ensure the owners’ interests were taken into account ‘go much further than anything that existed before’. And away he went, setting out each in turn: the right to be heard in court; the right to appeal; the Minister’s right of veto (with the claim that ‘[e]very order made by the Court is looked at with the idea of seeing whether there is no other way in which the land can be better used in the interests of the owners’); the fact that the vested lands could not be sold unless the land was unleaseable; the fact that land could not be leased or sold to a person other than a Maori if a suitable offer was forthcoming; and the obligation to invite applications from owners to lease in the first instance. ‘Probably the most effective safeguard of all’ the Acting

²⁶⁸ Rakaunui Komiti Whenua to Minister Maori Affairs, 15 September 1958, in above; DB:1075

²⁶⁹ Minister Maori Affairs to Tuteao, 29 August 1958, in above; DB:1073

Minister added in an amended version of the same letter that went out to the other Komiti Whenua two weeks later:

is the fact that Part XXV cannot apply to land which is being reasonably used and kept clear of noxious weeds and on which rates and similar charges are being paid, and that none of the people concerned – the Maori Land Court, the Minister, the local authority, the Maori Trustee, nor the Department of Maori Affairs – has any direct interest in having land placed under the control of the Maori Trustee in this way. Orders are sought and made only as a means of putting right a situation which is of no benefit to the owners themselves and which is bad for the local authority or adjoining occupiers, or both. If the owners wish to avoid any possibility of the making of an order, they can do so by curing the complaints on which an application for an order could be based.²⁷⁰

It was a circular argument that brooked no consideration for the circumstances which had led to the state of the land, or those of the Maori owner/occupiers, let alone for the Government's culpability for the same. The Minister was as equally blind to the inherent contradiction in his rhetoric regarding the effect of the legislation on Maori title: 'There is no intention of rendering the Maori landowners landless by the operation of the Act. It is only where land cannot be leased that it is sold; and land leased by the Maori Trustee under Part XXV still remains in the ownership of the owners, even though they may ... be unable for a time to exercise their right as owners.'²⁷¹

The Komiti Whenua collectively sought the return of ownership and control of Maori land. Confined by the strictures of bureaucracy, the Minister could not see a role for the Komiti Whenua. 'It is not quite clear' he continued 'how Committees of the kind you propose could assist in the administration of Part XXV lands.' He suggested that Komiti Whenua consider instead incorporation under Part 22, where a committee of management 'can have all sorts of powers conferred on it by the Court, whether for farming, the granting of leases or otherwise'.²⁷² In a subsequent letter the Minister acknowledged that this could only apply before the vesting orders over lands were made.

Wetini Tuteao's response was swift. The position was not as simple as the Minister made out, he argued, and the Act needed to be considered as a whole.

Part 24 relating to the Development of Maori Lands is not properly administered by the Maori Affairs Department in the best interests of the Maoris. This Department loads the Maori lands with such heavy financial burdens that the Maori

²⁷⁰ Acting Minister Maori Affairs to H Puke, 1 October 1958, in above; DB:1087

²⁷¹ Minister Maori Affairs to Tuteao, 29 August 1958, in above; DB:1074

²⁷² Ibid

owners will never be able to discharge them in a reasonable time. The Komiti Whenua realise that the lands must be developed for the common good, and they feel that only by their own combined effort through Komiti Whenuas can they prevent themselves from becoming landless.

....

We suggest that if the Government were to assist the Maoris to manage and farm their own lands, provide adequate access thereto, and help financially, they would do much better under Komiti Whenua control than under the present administration.²⁷³

It is noteworthy, given the above criticisms, that George Maihi was one of the 12 members of the Ngati Te Wehi Komiti Whenua. As set out earlier (6.1.4), Maihi had firsthand experience with stultifying and frustrating Maori Affairs administration. Tuteao maintained that Komiti Whenua control would be preferable to incorporation. He also claimed that the current 21-year lease terms with compensation for improvements meant that owners would never be in a position to resume occupation. He questioned why Maori land was taken for noxious weeds when Government and Pakeha land in the same condition were not. Finally, as already cited above, Tuteao called the Minister on his statement that Part 25 did not compromise the Maori ownership of Maori land, when to all intents and purposes the owners had no control while the Maori Trustee remained agent.

By September 1958 the impact of the Komiti Whenua was beginning to be felt by officialdom on the ground. Commissioner Bell, engaged on a special project to consolidate land titles at Taharoa to smooth the way for mineral extraction, saw fit to comment on the movement in a confidential memo to the Secretary for Maori Affairs on 26 September 1958:

Quite apart from the Taharoa work, though it might be affected, it seems that a number of Maoris in the nature of leaders or sub-leaders of various sections of the people, have been organising themselves into a body, apparently the idea being to take over control of all Maori lands and matters pertaining thereto. The leader or organizer appears to be one, Takiwaiora Hopa of Taupiri, (who incidentally is also a leading member of the Kauhanganui Council of King Koroki) as much correspondence in District Office either bears his name or refers to him. [note in margin: 'Incorrect!! Takiwaiora has no 'mana' in Waikato']

There appears to be a general Committee as it were with subsidiary Committees in different areas extending throughout the Waikato, and it seems the underlying objective is to take over control in some way of most of the present activities of the

²⁷³ Rakaunui Komiti Whenua to Minister Maori Affairs, 15 September 1958, in above; DB:1075

Department – just how or on what basis it is of course difficult to say or imagine, as the membership of such Committees obviously would not have the knowledge and ability.

I feel that the situation should be known to you, as if such a movement gains sway and affects the outlook of many of the people, it might upset a lot of the good work done for the people over the years, and lead them on the wrong track again as it were – the reverse of progress. An area like the Waikato is a fertile ground for such movements, (they are at present short of leaders of knowledge and foresight), and it is usually the people generally that suffer if such things are not straightened out or put on right lines before getting too far.²⁷⁴

A long memorandum on the same subject was also prepared by the Auckland district officer, AE Edwards, on the same day.²⁷⁵ Edwards described Hopa as a ‘trouble-maker’ and recommended he be ‘dealt with severely’ by Head Office. Hopa and other named individuals including Wetini Tuteao were accused of ‘subversive operations’, such as attempts to upset existing leases and interfering at court hearings. These events were not isolated cases, Edwards maintained, and then, echoing Bell:

I fear there are certain elements operating which will have a retarding effect on progress and in my opinion is liable to upset the good relations between the Department and not only the Waikato, but also the Maniapoto and Hauraki people, thereby undoing all the good work the Department has been given credit for in past years.²⁷⁶

Edwards maintained Tuteao was very active in Maori land matters, ‘although he has no business ability for it’, and described his demands for information and title searches as exorbitant. ‘Only recently he requested searches for very large numbers of blocks to which I replied that in view of the volume of work involved, the Department could not possibly undertake to carry out and suggested that he employ an agent to handle such matters for him.’ Edwards was also dismissive of Hopa’s abilities, ‘He is entirely confused with the different sections under the Act which operate Parts XXIV and XXV of the Maori Affairs Act 1953.’ The district officer was bothered nonetheless:

These people are making it very difficult for the Departmental Officers to carry out their lawful duties. To me they appear to be trouble-makers and are trying to foist their personal ideas on Maori Affairs over the Waikato–Maniapoto people. I anticipate there will be further trouble in the future. The group appear to be obsessed with the idea that all Maori land should be taken over by the Maori

²⁷⁴ Commissioner Bell to secretary Maori Affairs, 26 September 1958, in above; DB:1079-80

²⁷⁵ Auckland district officer to secretary Maori Affairs, 26 September 1958, in above; DB:1081-83

²⁷⁶ Ibid; DB:1081

people under owner committees to be called 'Komiti Whenua'. These activities could have disastrous affects on the welfare of the Maori people in the district.²⁷⁷

Edwards wanted the movement 'nipped in the bud'. It would be better, he maintained, if they directed their activities through the normal channels: the tribal committees, the Maori Land Court and the Maori Affairs Department.

The Maori Trustee's response to the Komiti Whenua demands was once again to assume that the grievances were the result of a lack of understanding. A pamphlet was proposed, setting out the principles behind the legislation, 'which it is hoped will make the situation more clear to the people and allay the fears and suspicions which are being so frequently expressed at present.'²⁷⁸ The Maori Trustee had also intended visiting the district to convey these principles in person, but reconsidered on advice from departmental staff:

Knowledgeable senior Maori officers advise me, however, that the correspondence comes in the main from one family group, the members of which are of no great consequence among the local Maori people generally; and it is thought that such a visit would be likely to encourage further opposition by lending to the critics and their views an appearance of greater weight than they really command.²⁷⁹

In his memorandum to the Minister dated 20 October 1958, the Secretary for Maori Affairs – also Maori Trustee – Sullivan, at least acknowledged that a claim of injustice was involved (as opposed to misunderstanding). However it was pointed out that all the correspondence of late had followed a same general pattern, and was inspired by the same source. He advised that 'further correspondence with the one or two people who have been promoting the present agitation would merely encourage them to persist.' He recommended that further correspondence should not be acknowledged.²⁸⁰

One last standard reply was sent to the Te Akau Komiti Whenua on 5 November, which in turn prompted a response in a similar vein. T H Haimona pointed out that the safeguards referred to by Nash were not safeguards at all, but rather burdens placed on Maori owners in terms of court expense, legal fees, travel costs and time wasted in waiting. The Komiti Whenua, he reiterated, wanted no less than to control and manage their own lands, like Pakeha, independent of the Maori Affairs Department and the Maori Trustee.²⁸¹ The result was a direction from Head Office to the district officers, that no further

²⁷⁷ Ibid; DB:1082

²⁷⁸ Maori Trustee to Minister Maori Affairs, 19 September 1958, in above; DB:1086

²⁷⁹ Ibid

²⁸⁰ Secretary Maori Affairs to Minister Maori Affairs, 20 October 1958, in above; DB:1089

²⁸¹ Te Akau Komiti Whenua to Minister Maori Affairs, 17 November 1958, in above; DB:1090

correspondence would be answered. A subsequent letter from T Te Huia of Ngati Te Wehi Komiti Whenua was ignored, with the annotation ‘Secretary of Maori Affairs says Hopa does not represent Maoris of any standing.’²⁸²

Subsequent ‘Kotahitanga agitation’ as the secretary called it, appeared in the communist publication *Peoples’ Voice* in June and August 1960.²⁸³ The reports followed a conference of ‘Waikato, Hauraki, Haua, Maniapoto, Mahanga and Wairere tribes’ at Ngaruawahia on 12 June 1960, where Takiwaiora Hopa criticized the Maori Affairs Act 1953 as a further statutory refinement of legalized robbery. Hopa claimed that the recently reported urban drift of Maori youth was the result of the government’s deliberate policy of rejecting claims for financial development assistance. A month later, under the headline ‘Maoris take steps to stop land fleecing’ and the subheading that £14,000 of timber on Maori land had been sold recently for £500, the report drew attention to ongoing Maori dissatisfaction with Maori Affairs control of development. It is evident that Komiti Whenua were still active and still angry, and Takiwaiora Hopa, described in this report as the chief organiser of Te Kotahitanga, was threatening legal proceedings over the Department’s development of the Pohara block, ‘after refusing the Maori owners any financial assistance to develop the land themselves.’ The conference was reportedly calling for a Royal commission of inquiry into Maori affairs. Although both articles were brought to the Secretary’s attention, McKay repeated, ‘I am not taking any action.’²⁸⁴

6.6 Reflections on the 1950s Forced Settlement Legislation

6.6.1 *Te Awaroa Block applications*

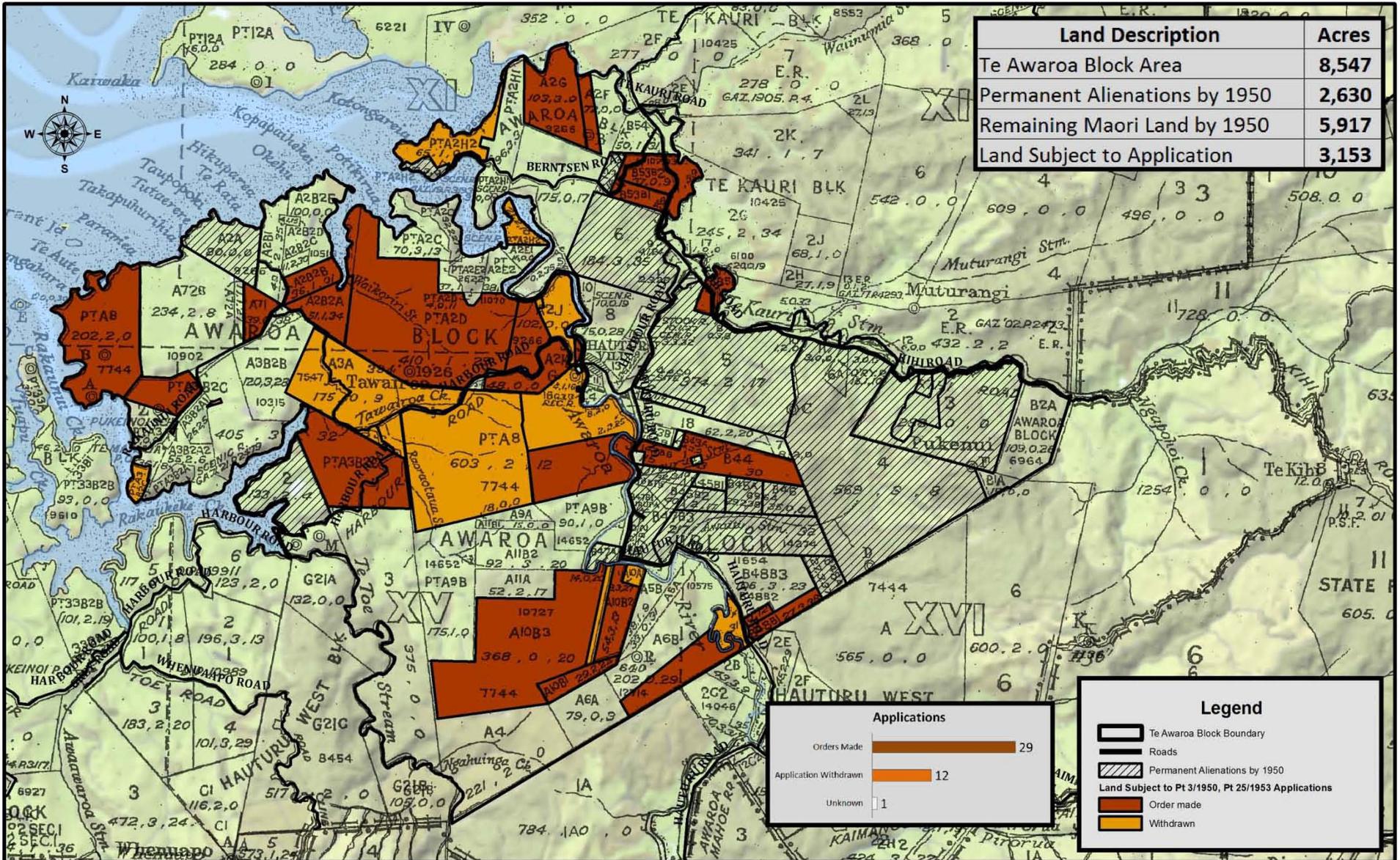
The map *Te Awaroa Block 1950 – Local Body Vesting Applications* showing applications affecting Te Awaroa land blocks was prepared by Tutahanga Douglas to give a visual representation of the issues at work. The Te Awaroa block is not typical, for the 42 assessments targeted for application were the highest number in any one block in Te Rohe Potae. Three of these properties, 3B2B3B, A3B2C2C1 and A3B2C2D1, were unable to be traced, meaning that a shortfall of 184 acres is not shown as affected on the map.

²⁸² Ngati Te Wehi Komiti Whenua to Minister Maori Affairs, 6 December 1958, in above; DB:1093

²⁸³ *Peoples’ Voice*, 22 June 1960, p 4; 31 August 1960, in above; DB:1094-95

²⁸⁴ *Ibid*, see note below article

Te Awaroa Block 1950 - Local Body Vesting Applications



As a first point, the map indicates the extent of alienation before the impact of the 1950s legislation. Of the 2630 acres sold by 1950, 85 per cent of this had been purchased by the Crown between 1901 and 1907. The last private transaction occurred in 1935.¹ (The 1953 purchase of 12-acre Awaroa B4/7B2 by Fred Ormsby, rates collector and court witness for the Kawhia County Council, raises again the issue of conflicting interests.) The map shows the blocks that became subject to county council vesting application, distinguishing between the blocks for which orders were made, and those for which the applications were subsequently withdrawn. It does not show which lands were ultimately subject to alienation. According to evidence presented in court, of the 42 Awaroa blocks that were subject to application by the Kawhia County Council, 11 of them had people living on them, four were being cultivated, and 16 were being grazed by Maori occupiers.

The Te Awaroa block was home to two settlements: Rakaunui, an old Maori community on the headland near the Rakaunui inlet; and Hauturu, a more recent village that reflected the enclave of Crown settlement on the Awaroa River. By 1927 the Rakaunui community was said to have built their own road out to Harbour Road to facilitate their farming operations.² In 1947 these were described by the Maori Affairs development unit field officer as 40 dairy cows, 900 sheep and dry stock.³ At this time the community was described as 16 families, with 60 dependents. Five of these families were living in 'suitable' dwellings, the remainder housed in ponga whare. The Department's interest in the community in 1947 had been prompted by the Minister of Internal Affairs' visit to the district the previous November. WE Parry had been so concerned with the living conditions at Rakaunui he had been moved to promise the community a grant of £500 towards a permanent water supply. In passing the matter on to his colleague in Maori Affairs, he also pointed out the dire need for help with housing and land development.⁴ The request for a water supply was followed up by T Kerapa, chairman of the 'Rakaunui Water Committee' and by the local branch of the NZ Labour Party.⁵ The Native Department's initial response was the same familiar noises about limited materials and labour. When the field officer visited the community in May 1947 he told them that it would probably be necessary for them to come under Department development 'to ensure that any water reticulation scheme would be under proper control'.⁶ He also noted their previous rejection of Maori Affairs development the decade before and the fact that if land further around the coast had road access, it could be developed in conjunction with Rakaunui. In the event, the promise

¹ Innes, Douglas and Mitchell, 'Te Rohe Potae Land Alienation Report', Te Awaroa. Table of alienations.

² Assistant engineer to district engineer Public Works, 10 January 1927, BBAD 1054 2298b 15/5 part 1, ArchivesNZ Auck; DB:1570

³ Field officer's report, 9 May 1947, in MA W2459 215 19/5/99, ArchivesNZ Wgtn; not in DB

⁴ Minister Internal Affairs to Minister Maori Affairs, 13 November 1946, in above; not in DB

⁵ See correspondence in above; not in DB

⁶ Field officer's report, 9 May 1947, in above; not in DB

of a water supply came to nothing. Nor was there help with housing or development. Seven years later one of the blocks singled out by the field officer in 1947 as a development possibility, Awaroa A2B2A, was vested under Part 25/1953 in the Maori Trustee for alienation. This was the occupied block subsequently leased by the trustee to local Pakeha farmer Meredith, without first offering it to the owners, invoking the criticism of the Rakaunui Tribal Committee that the Government's actions were tantamount to Nazism.

In 1949 Prime Minister Fraser resisted the forced settlement of Maori land on the grounds that the Treaty of Waitangi guaranteed to Maori the full, exclusive and undisturbed possession of their lands. Such considerations however, were swept aside in the wake of a rising tide of argument that the 'national interest' demanded that these lands become productive economic farming units. Increased production from these 'idle' lands would lift New Zealand out of post-war austerity and feed a growing world population. At their wildest, the local bodies claimed that 'idle' Maori land invited invasion from the 'land-hungry' and 'under-nourished' of Asia.⁷ Research suggests that much of this groundswell was manufactured by the local bodies themselves – scaring their constituencies and the government with exaggerated claims regarding expired leaseholds for example – and fanned by media with value-loaded descriptions of 'smiling' landscapes being 'disfigured' by 'great dark scars of fern, blackberry, and gorse.'⁸

Such claims diverted attention from the fact that fundamentally, it was local interest at stake. For the local bodies of Te Rohe Potae the pressing issue driving the economic utilisation of Maori land was county revenue – rates – for expenditure on county development – roads. As exemplified by the experience of Kawhia County, the local government system as devised was incompatible with large areas of undeveloped, non-ratepaying, multiply-owned and occupied land. In the ill-chosen words of the Minister of Maori Affairs Ernest Corbett, the 1950s legislative mechanism promised 'the complete solution': to the non-payment of rates, the identification of liable occupiers and the menace of noxious weeds. To Maori audiences, the Minister promised that the fee simple of their land would remain inviolate; that the legislation would result in considerable economic gains for the landowners from the leaseholds administered by the Maori Trustee; and that the owners' interests were protected by a robust process throughout, including the promise of Departmental assistance with development for Maori farmers. He was also forced to remind the local bodies of Te Rohe Potae on more than one occasion that the purpose of the legislation was to encourage landowners to become 'land conscious' – to develop their lands and

⁷ See for example Kawhia County Council representations to Minister of Works, 16 May 1950, 233042 Kawhia County Council correspondence, Otorohanga DC; DB:1777

⁸ *King Country Chronicle*, 5 May 1948, in MA 1 405 20/1/1 part 5; DB:419

pay rates – rather than to dispossess them of title. To both, he claimed that the legislation effectively dealt with the problems arising from multiply-owned land, providing lessees with a secure tenure to enable development.

6.6.2 Economic gain

The financial gains for Maori in the way of rent, together with the eventual return to the owners of a fully developed farm was advocated by the Raglan County Council in its promotion of the legislation.⁹ Maori owners could be excused for being somewhat sceptical of such claims given their past experience. Indeed the claim about eventual return was a spurious one when it is considered that the groundswell for the forced settlement legislation had been swept along by public concern about the falling-in of the original 42-year leases. To some extent the terms of the 1950s leaseholds had been amended to take account of past criticisms of earlier arrangements. The 75 per cent compensation for improvements was designed to both encourage potential lessees, and to prevent them from leaving the land to deteriorate in the last years of the lease. Setting aside half of the rental into a compensation fund was designed to enable the owners to afford to resume the lease at the end of any 21-year period. Should this fund prove insufficient at the end of the term, the Maori Trustee was required to advance the necessary balance as a charge on the land. The standard leasehold agreement also stipulated set conditions – in terms of good farming practice – to protect the land.¹⁰

It is beyond the scope of this report to ascertain the extent to which Maori owners benefitted economically from the lease of their land under Maori Trustee administration, but a number of observations can be made. It is clear from testimony in court that Maori owners themselves were apprehensive about their ability to pay for improvements at the end of 21 years. Criticisms were also made in 1958 by the Taharoa Kiwi Komiti Whenua that the retention by the Maori Trustee of half of the rental meant that very little money was distributed among the owners.¹¹

The point needs to be understood too, that owners who agreed to the lease of their land under the provisions of 1950, were overtaken by the widening ambit of the 1953 amendment, which provided for the sale of farmable land without consulting the owners. At least 10 of the properties leased in Kawhia

⁹ 'Maori Affairs Act 1953', 233007 5/9 Application for land under Section 387 Maori Affairs Act 1953, Otorohanga DC; DB:1656-57

¹⁰ Lease agreement set out in Kawhia County Council, 5/9 Admin. Application for land under S.34 Maori Purposes Act, Waitomo DC; DB:2573-77

¹¹ Taharoa Kiwi Komiti Whenua to Minister Maori Affairs, 11 August 1958, AAMK 869 W3074 395d 12/0/9; DB:1071-72

County were subsequently purchased by the lessee. It is also the case that in the absence of any government monitoring of local body activities, numerous orders were made for blocks that proved ‘unleaseable’: either because of the location, or topography, or the lack of access, or the size. A Maori Affairs list of February 1957 shows 46 such blocks, but the implications of this list are less clear from the file.¹² Following departmental policy, did such ‘unleaseable’ lands then get advertised for tender to purchase? A perusal of Maori Trustee administration files for vested blocks also suggests a high incidence of re-entry on leaseholds as a result of the conditions not being met. The administration of vested land by the Maori Trustee is the subject of research by Heather Bassett which will no doubt result in a more conclusive analysis of the promised economic benefits to Maori owners.

Corbett’s solution was fundamentally a short-term fix. It is more than a little ironic that a major stimulus for the 1950s legislation was the expiry of the leases of the early nineteenth century and it is difficult to give any credence to Corbett’s musing – given the absence of any corresponding policy to make it happen – that in 21 years time Maori would be any more ready, in terms of capital or experience, to take over the farming of their lands.¹³

6.6.3 Protection of Maori interests

It also goes without saying that the abrogation of proprietary rights wrought by the 1950s legislation was not in the best interests of Maori landowners. As Komiti Whenua throughout Te Rohe Potae pointed out, once orders had been approved, the owners lost all control over their lands and resources thereon. Government claims to Maori that the legislation protected the freehold are contradicted by the Maori Trustee’s power to sell. Nor do government’s assurances about the protective safeguards in the process itself stand up to scrutiny. The court was open, to be sure, but it has been seen that for the majority of applications only a fraction of the owners in any block were notified, usually only a fortnight before the court sitting, with 43 per cent of orders made in their absence. The right of appeal did not include the right to challenge the grounds set out in the legislation itself. That rates had to be paid, land cleared of weeds, and arrangements made for the ‘proper’ occupation of land was non-negotiable. It has also been shown that the judges presiding over the majority of applications in Te Rohe Potae – Beechey and Prichard – were partisan to local body interests. Judges who displayed a little more circumspection in applying the Act were simply removed.

¹² ‘Part XXV/53 Lands Unleaseable’, AAMK 869 W3074/394e part 3 12/0; DB:1045-46

¹³ See Corbett’s earlier comments about ‘land consciousness’ in 6.1.3

In effect, the four grounds for invoking Maori Trustee appointment as agent could be applied to virtually every block of Maori land in Te Rohe Potae. The only leeway given to owners was a small reprieve to make their own arrangements. In most cases, the passage of three months did nothing to overcome the problems of multiple title and few financial means. Reverted farm lands could be taken on the grounds of noxious weeds; fern and grasslands on the grounds of neglect to farm. Unoccupied lands with absentee owners could be taken on this basis alone, but nor did residency and cultivation amount to much in the Court's interpretation of the Act. One of the most pernicious aspects of the 'neglect to farm' grounds is the displacement of the owner/occupiers often, it seems, living in very humble circumstances. When a lease was insisted on, only a single occupier was ever contemplated by the Court. Where did these people go? There is evident also, the tendency to undermine or downplay the ownership rights of those eking out a subsistence living from their lands. Distinctions were made between 'owners' and 'squatters', but fundamentally they were reduced to the same basis by circumstances of poverty: 'One is an old man who is one of the principal owners, but he is a very old man and is just squatting on the property.'¹⁴ Where Maori lands were occupied and farmed, the county councils could – and did – rely on the non-payment of rates charged against the lands as a final resort.

Unlike the local bodies of the district, Maori communities were not forewarned of the legislation, with the explanation to Ngati Maniapoto for example coming only once the first pleas for Ministerial intervention were made by George Turner. It should also be remembered that Maori was still the only language spoken by many of the isolated communities in the district. A recurring request of the Komiti Whenua of 1958 was for a Maori translation of the offending Act for the information of the people. The request was turned down on the grounds that it posed difficulties in 'rendering the formal and technical language of a statute in a form of words which can be understood by people generally'.¹⁵

The assertion that each order received the careful consideration of the Minister prior to his sanction is questionable. Recommendations on each block were forwarded to the Minister by the Maori Trustee – Tipi Ropiha – in brief memos that did little more than summarise the evidence adduced in court.¹⁶ By May 1953 the sheer magnitude of applications resulted in the shortcut of providing schedules of blocks to the Minister with the recommendation from the Maori Trustee – Tipi Ropiha – that he sign all of them.¹⁷ The details for each parcel of Maori land placed before the Minister contained the block name, acreage,

¹⁴ Aotea South 3D, 'Maori Land Court Sitting at Kawhia', 5/9 Admin. Application for land..., Waitomo DC; DB:2609

¹⁵ Minister Maori Affairs to W Tuteao, 29 August 1958, AAMK 869 W3074 395d 12/0/9; DB:1073

¹⁶ See for example Maori Trustee to Minister Maori Affairs, 13 February 1953, in regard to Moerangi 3E2B1 in MA 1 244 12/1023; DB:125

¹⁷ See for example schedule with Maori Trustee to Minister Maori Affairs, 4 May 1953, MA 1 245 12/1064; DB:128

applicant county, number of owners, grounds of order, interest in lease or sale, and very little else. Relevant files were also supplied but Ropiha's note that 'any special circumstances are touched on in the schedule to this memorandum', leaves one with the uneasy impression that consulting the file would have been the exception rather than the rule. Corbett's successor had also reassured Maori critics that every order was also considered in terms of the best use of the land in terms of the interests of its owners. In practice this meant a report prepared by the field supervisor subsequent to the order, filled out on a set form including details such as the location, access, special government valuation, topography and vegetation, extent of improvements and access to water supply and electricity.¹⁸ The field supervisor also made recommendations regarding the potential utilisation of the land (the choices seemingly sheep or dairy), whether it was economic on its own for example, or whether it might be combined with similarly vested blocks for Departmental development. Lastly, the supervisor also made recommendations regarding the capability of the owners or potential Maori occupiers to farm the land themselves. As set out above in the discussion over development, Departmental assistance was only ever considered on a scheme-type basis. Where properties were deemed to be economic, but could not be included in a 'scheme' with other lands, the recommendation was made for lease. There was no designated space on these block forms to take note of areas of special significance, such as urupa and wahi tapu.

One of the main justifications for the legislation was that it overcame the 'difficulties' multiple ownership posed to the economic utilisation of land. In compiling the schedules set out in Appendix 2, the number of owners of each subject block was recorded where this information was available – as it turned out, in 151 of the 339 applications, a little less than half. Of these 151, 51 blocks were owned by 1-2 individuals, with most of this category being sole owners. Multiple ownership was a factor in the debate over developing Maori land – Ngati Maniapoto alluded to the difficulties it posed – but given the fact that one-third of the representative sample were not owned in common, it was clearly not the defining rationale as the Government asserted. Certainly no distinctions were made by the Court in applying the legislation to lands, whether 1 or 100 owners were involved.

Nash's final claim, that no one body or person stood to gain from the legislation is also open to question. Raglan County Council's admission regarding the aggregation of land by the county's established Pakeha farming community has been set out above. The conditions of the lease, including the purchase of existing improvements and proof of development, put leaseholds out of the reach of those with small means, Maori or Pakeha. Under intense pressure by the local bodies to have the vested lands dealt with, the Maori Trustee tended to turn a blind eye to issues of land aggregation. Particularly in a county such as Kawhia in

¹⁸ See for example that for Moerangi 3D1 in above

which genuine demand for land was minimal, the farmer with means could reap rewards. The best example of this is the lease of Awaroa A2B2A to Patrick Meredith on the recommendation of the Otorohanga County Council, discussed above. The participation of Thorn in the Kawhia County Council prosecution of Aotea lands is another example where complicit local body councillors directly benefited from the process. The degree to which individuals in positions of power personally gained from the implementation of the legislation – whether Maori or Pakeha – would require further research. (One such allegation was that a senior Maori Affairs officer acquired vested land at Raglan, another is Broadfoot's involvement in having land adjoining his daughter's property the subject of application.¹⁹) However, these examples of personal gain should not serve as distractions from the fundamental purpose of the legislation, which was to force Maori land tenure into a workable unit to meet the needs of local government. The intended beneficiary was local government hegemony, and not individual gain.

6.6.4 Why *Te Rohe Potae*?

It is worthwhile pausing to consider how far the New Zealand government had moved with regard to Maori land policy in the space of a decade. While Walter Nash's assertions that provisions for the alienation of Maori land for unpaid rates, unoccupied land and noxious weeds had been on the law books since 1909 were theoretically correct, the practice of even the most assertive settler governments – under Herries' stewardship for example – had fallen short of enforcing such provisions on a wide scale. The 1945 Local Government Commission's call for the forced settlement of unoccupied lands through long-term lease was rejected by the First Labour Government, and by the majority of the Maori Land Court judiciary as a reactionary incursion on Maori proprietary rights. Two years before the passage of Section 34/1950 it was still widely argued that the rating of Maori land should take into account the capability of the land to sustain rates, and the economic circumstances of the owners. Receiverships for non-payment or Native Trustee leases for weed-infested unoccupied lands were not to be the means of dispossessing Maori of their remaining lands.

The effect of the 1950 and 1953 legislation was to dismiss completely the political, legal and economic basis – the legacy of colonisation in fact – for all of those thousands of acres of undeveloped Maori land. King Country newspapers proclaimed 'the Maori is not a farmer', while Corbett insisted the legislation encouraged and enabled Maori farming 'if he was of the calibre likely to make a go of it'. Both local and central government were well aware of the 'Gordian knot' preventing Maori from becoming farmers –

¹⁹ The allegation regarding Palmer's purchase of interests in Whaanga 1D1D was made by Ngaia Komiti Whenua to Minister of Maori Affairs, 26 July 1958, AAMK 869 W3074 395d 12/0/9; DB:1067. The s540/1931 application involving Broadfoot was that for Te Uira A4, which adjoined his daughter's dairy farm. The order was made in February 1950 (see appendix 2). Broadfoot's involvement is detailed in MA 1 244 12/936, not in DB.

lack of capital, small uneconomic titles, marginal lands and no access – but rather than invest in a remedy in which Maori could economically benefit from their lands, the ‘complete solution’ was to transfer instead the tenure to those with private means.

One of the cruellest aspects of the 1950s legislation however, and one completely hidden by the above discourse on unproductive lands – from both central and local government – is the degree to which the local government system was of itself culpable for the failure of Maori farming endeavours. The clue lies in the references in evidence to court such as ‘half area grassed’, or ‘old cowshed on property’, or ‘formerly farmed, now reverted’.²⁰ What becomes clear in the closing chapters of this report, is that Maori in Te Rohe Potae *were* farmers, and that whole communities did try to engage in the new pastoral economy, albeit declining for the most part to do so under Maori Affairs control. In many cases they were also forced to do so – through local body neglect – without the essential requirement of a road. Kawhia County Council steered clear of Taharoa lands in its 1950s applications, but it had no such scruples over old dairy farms on the Aotea harbour, the milking run dry for want of a road. It is difficult to quantify the extent to which land vested on the pretext of ‘neglect to farm’ was in fact due to local body neglect, but it clearly was a factor.

Te Rohe Potae was not the only district in New Zealand which continued to pose revenue problems for local government by the 1950s. In Northland too, rates collections from Maori land at this time were still comparatively low. Why then was this legislation applied almost exclusively to the Waikato-Maniapoto region? The answer, it is suggested, partly lies in the deep-seated political resistance to rating and the whole local government regime within Te Rohe Potae, a phenomenon Kawhia Country Council bitterly described as ‘non-cooperation’. Corbett may not have deigned to respond to Turner’s assertion that Maori within Te Rohe Potae should not be required to pay rates, but he was well aware of the widely-held contention. Second only to economic rhetoric surrounding the productivity of idle lands was the drive to make tangata whenua ‘land conscious’: to make ‘proper use’ of their land; to pay rates. The legislation was indeed drastic – either engage with the new order and pay rates, or lose your land.

Ultimately however, the 1950s legislation reflects the imperatives of the local government system: a wide rating base from productive land. The pattern of settlement in Te Rohe Potae on the other hand, the legacy of large areas of non-rateable Crown land coupled with that of non-ratepaying Maori land, posed an ongoing handicap to local government, and ‘progress’ generally. One need only look to the moribund Kawhia County to see the results. The legislation should be seen in the light of previous attempts – such

²⁰ See Appendix 2 for examples.

as Crown purchase and the Native Land Settlement Act 1907 – to solve local government issues by the transfer of Maori land into private, rate-paying hands. With regard to the long-established and comparatively comfortable Raglan County, it is difficult to avoid the conclusion that the council's jumping on the coat-tails of a measure designed to meet the cash-strapped circumstances of the King Country was little short of greedy opportunism. This judgement however, is tempered with an appreciation of how the county system operated, with each riding run as a separate financial unit. As set out in Chapter 9, within Raglan County the ridings to the south containing significant areas of Maori land would have faced the same issues as the local bodies of Te Rohe Potae proper.

From the breakdown of consolidation in 1933 to the end of the Second World War, local body deputations had made an almost annual pilgrimage to argue their plight with government. For its part, the government refused to acknowledge the special circumstances of the King Country and its own culpability for the difficulties with which ratepayers were faced. The 1950s legislation can be viewed as the culmination of two decades of escalating local pressure in the face of government inaction. It can also be seen as the least imaginative, least principled and most cost-effective means of the government to 'fix' the problem of settlement in Te Rohe Potae.

Chapter 7

Rating of Maori land, 1960-

What had occurred in Te Rohe Potae in the 1950s proved to be a trial run for the rest of the nation. The repeal of the highly contentious Part 25 of the Maori Affairs Act 1953 in 1970 could be construed as a small victory for the interests of Maori landowners, or a belated prick to the conscience of the Crown about protecting those interests. In fact, buoyed by the rhetoric of productive land utilisation, the main components of the 1950s legislation had been reworked into the Rating Act 1967 three years before. Under this Act it was no longer necessary to set out all the grounds for which Maori land could be compulsorily vested: in making a charging order for unpaid rates the Court was now required to take future land utilisation and future rates payments into account, and empowered to vest the land in a trustee for lease or sale as a result. Local government was given an advisory role as to the best use of Maori land.

1967 marks perhaps the nadir of Crown regard for the proprietary rights associated with communal Maori land tenure. The rating revisions coincided with other legislative incursions against multiple ownership including the compulsory purchase of ‘uneconomic interests’ and the ‘Europeanisation’ of Maori land with four or less owners. The provision to have land sold for the non-payment of rates endured until the Rating Powers Act 1988. It has not been reinstated since.

Despite a dwindling land base, the rating of Maori land has remained a controversial issue. It formed part of a wider government inquiry into the funding of local government in 2007.¹ A number of ‘distinctive features’ of Maori land identified by the inquiry panel provides the context for much of the ongoing problems surrounding non-payment of rates:

- there are 1.5 million hectares of Māori freehold land (6% of New Zealand’s land mass).
- An estimated 80 per cent of Māori freehold land is classed as non-arable.
- Around 33 per cent is landlocked.
- the land is covered by 26,480 titles.

¹ *Funding Local Government: Report of the Local Government Rates Inquiry*, 2007, online at <http://www.dia.govt.nz>

- the average size of title is 59 hectares.
- the average number of owners per title is 73.
- An estimated 57 per cent (15,278) of the titles are unsurveyed.
- Only 29 per cent (7,634) of the titles are under a management structure.
- Up to one-third of the owners recorded on titles are deceased, and their interests have not been succeeded to.²

Even when land is potentially productive, the Panel reported that constraints on borrowing, ownership issues, the burden of unpaid rates, and other matters create barriers to the use and development of the land. This chapter deals with rating developments since the 1960s, many of which, as suggested by the government's own recent study, are unresolved issues from *mai ra ano*. The lack of sources has meant that the local impact of modern legislative developments cannot be tracked in the same detail as in previous chapters.

7.1 New times/old problems

Many of the issues that were identified 30 years before continued to plague local bodies in Te Rohe Potae in the 1960s. In 1964 for example, the county councils of Waipa and Otorohanga were still bemoaning the lack of rates payments from the development schemes of Pohara, Mamakumarū, and Paewhenua: 'the thing that hurts is to see these lovely properties, all in grass with cattle and sheep grazing everywhere, and we don't get a thing from it.'³ Likewise, Taumarunui Borough Council via their local MP continued to argue that the protection afforded to Maori landowners was 'grossly excessive ... all New Zealanders should be placed on a similar basis: namely, they pay their rates or their land is sold ...'⁴ To the old 'burden' of unpaid rates on unoccupied town sections was now added a new interest in urban subdivision, with councillor eyes in particular on 97 acres of Maori land on Hospital Hill: 'The Council complains that the present state of the law simultaneously assists the owners to leave their rates unpaid while preventing the very desirable development of the building land of the Borough – to the real advantage of both the Borough and the owners.'⁵ When the matter was followed up by the Department's district officer, he reported in July 1964 that the 97 acres was in fact four sections totalling about 56 acres, including a five acre section on which was located a marae and the residence of an elderly woman: 'I do not think that the

² Ibid, 13.19

³ "'Lovely" Maori Farms Cannot Pay Rates', *Te Awamutu Courier*, 19 February 1964, in AAMK 869 W3074 720b 20/1/1 part 9; DB:943

⁴ RE Jack MP to Minister Maori Affairs, 10 April 1964, in above; DB:944

⁵ Ibid

Maori Trustee would be very interested in putting bulldozers over this piece of land.’⁶ He also described the actions of a belligerent borough council:

It is understood that an application was recently made to the Court on the instigation of the Rates Collector in Taumarunui to have a Corporation formed to subdivide and sell area (b) and another block besides. It is also understood that an application is contemplated to have the Town Clerk appointed Receiver of the area marked (d) with a view to him giving a grazing tenancy in order to meet the rates.⁷

The district officer claimed that his ‘personal discussion’ with both the town clerk and the Maori rates officer had dissipated ‘several of their misconceptions’, yet the threat to the proprietary interests of the landowners seemed no less assured: ‘It was agreed that in those cases where the Borough Council considers that something should be done to split up the land, the Council Officers will lead the owners to approach the Maori Trustee with a view to a trust for the subdivision and sale.’⁸

Within urban areas, local authorities increasingly turned to Maori Affairs to extract rates payments from resident Maori, particularly those living in homes mortgaged to the Department. While falling short of accepting liability for default as first mortgagee, the Department did take on an intermediary role to ‘see that Maori householders meet their obligations.’⁹ Approached by the Havelock North Borough Council in 1971, Duncan MacIntyre Minister of Maori Affairs promised that the Department would do what it could:

There is a variety of ways open for co-operation between local body and department, especially if the authority will accept payment of rate arrears by instalments. The Department would possibly be able to get an increased wages assignment under special arrangements with the clients, whereby surpluses for rates instalments are aimed at. In some cases, it may be possible to interest budgetary advisors in helping families to arrange their financial affairs in a better way, thus providing for rates. Some really remarkable results have flowed from this kind of service.¹⁰

This kind of departmental financial management over urban ratepayers – outwardly cooperative but ultimately coercive – can be seen as an extension of the same policies to deal with rates from unit farmers developed since the late 1930s.

7.1.1 Problems with incomplete valuation rolls

⁶ Wanganui district officer to Head Office, 16 July 1964, in above; DB:946

⁷ Ibid

⁸ Ibid

⁹ Minister Maori Affairs to clerk Havelock North Borough Council, 4 November 1971, in above; DB:973-74

¹⁰ Ibid

The concerted local body effort of the 1950s had made inroads into its ‘Maori land problems’ within Te Rohe Potae – coercing payment from productive lands and transferring tenure of unproductive lands – but the fundamental ill-fit of the rating legislation to multiply-owned land remained. The Waitomo County Council’s rates books of 1959/60 indicate that non-payment from Maori land remained a significant issue for the county council at the end of the decade.¹¹

Riding	Rateable value (£)	Total rates collectable (£)	Current rates outstanding (£)
Aria	16,300	713	484
Awakino	10,260	449	327
Hangatiki	52,700	2306	1297
Mahoenui	19,450	851	195
Mairoa	34,350	1503	945
Paemako	70,020	3063	1628
Tangitu	23,195	1014	891
Te Kuiti	47,450	2076	1328
Kawhia South	22,440	2466	2008
Total	296,165	14,441	9103

The council kept separate ‘Maori’ and ‘European’ rates books at this time. Given the fact that numerous Maori names are listed as ratepayers in the European rates book, it is not known how the distinction was made. Economic, social and political factors no doubt continued to play their part in the ongoing lack of payment from Maori land, but the rates books clearly show that administrative factors were also largely to blame. The Kawhia South Riding for example was comprised of 159 ‘Maori’ assessments. Just under half of these – 74 of them – had no listed owner or occupier, the word ‘Maoris’ entered in the column alongside the land description. Listed in this way, there was no way of meeting even the fundamental procedural steps attached to ratepayer liability, such as the service of rates demands. For a further seven assessments, the listed owner/occupier was noted to be deceased, with no replacement individual listed as liable occupier/owner. All of these defaulting lands were transferred to the county’s rates arrears book, attracting a further 10 per cent penalty for non-payment. Rates for two assessments listed in the name of the Department of Maori Affairs were also in default. Of the 159 assessments then, only 67 were listed

¹¹ Waitomo County Council Maori Rates Book 1959/60, amounts rounded to nearest £; Digital DB: Local Body Records/Waitomo DC

with identified individuals, 24 of whom paid their rates. The remaining 43 did not. The Kawhia South riding, a recent inheritance of the old Kawhia County district, was in the poorest shape in the county administratively speaking. Maori ratepayers for the most part were identified within the other ridings, although not all of them. Another legacy of its former status as the impoverished Kawhia County was that for 10 years ratepayers within the riding of Kawhia South were rated four times more than those within the other ridings of Waitomo County, the parent entity unwilling to assume liability for the roading investment that came with amalgamation.¹²

As late as 1970 Maori Affairs was the recipient of rates notices addressed to ‘Maoris’ as a result of the Valuation Department’s practice of inserting ‘C/- Maori & Island Affairs Department’ where the names and addresses of the occupiers and owners of Maori land were unknown.¹³ The practice was said to have been a problem for many years in all district offices, despite repeated representations to the Valuation Department to rectify matters.¹⁴ In 1986 the Gisborne registrar argued that the problems encountered with unoccupied Maori land were still primarily the result of poor procedures and poor relationships: ‘One of my major criticisms of local bodies is their reluctance to physically visit land to determine who is in occupation.’¹⁵ He went on to point out another yet another aspect of the issue arising from modern-day urban migration of Maori, with those left back home appointed by the absent landowners as quasi ‘caretakers’, a role that fell short of taking over formal tenure of such lands.

7.1.2 Problems with rates demands

In addition to incomplete and erroneous rolls, there were additional problems in applying even the most basic procedures to multiply-owned land. In the first instance, the Act did not expressly stipulate whether a rates demand was to be served with regard to Maori land, although over time the Maori Land Court had interpreted the legislation as doing so. Rating authorities were increasingly required by the Court to demonstrate that rates had been demanded in order to secure the arrears by way of a charging order. Doing so under existing legislation was problematic. With regard to multiply-owned land for which there was no listed occupier, in many cases it was impractical, ‘if not quite impossible’, to serve demands on each and every owner.¹⁶ For blocks which were unoccupied, unimproved, in remote locations or else entirely inaccessible, leaving a notice on these properties was also redundant. In practice, local bodies

¹² Kawhia South riding was rated at 2s 2 & 3/8ths d in the £ as compared with other ridings rated at 10½d in the £, in above; Digital DB

¹³ District solicitor to assistant district officer, 25 August 1970, in AAMK 869 W3074 720b 20/1/1 part 9; DB:969-971

¹⁴ Secretary Maori Affairs to Palmerston North Office, 19 September 1970, in above, DB:972

¹⁵ Gisborne registrar to Head Office, nd, ABJZ 869 W4644 59 20/1 part 2; DB:1246

¹⁶ Judge Porter ‘Rating of Maori Lands’, 4 March 1961, MA 1 405 20/1/1 part 8; DB:482-85

relied instead on Section 107 to get around the problem.¹⁷ This Section provided for a Court appointee to be entered into the column of occupiers of multiply-held land, who would be sent claims for rates. But as Judge Porter pointed out in 1961, Section 107 had been enacted for representation purposes, the single appointee empowered to vote in local body elections and polls in respect of the multiply owned property; it was not intended that this individual be held to be the liable occupier for rating purposes, and it was dubious whether serving rates demands to such individuals could be said to satisfy the legal requirements surrounding the service of demands.¹⁸

Judge Porter argued that the ambiguities and procedural difficulties in serving a rates demand under existing legislation meant that local bodies were effectively stymied. He called for ‘some express provision’ for the Court appointment of an owner on whom rates demands could be served, which would be deemed to meet the requirements of the Act. In passing on the request to the Minister of Internal Affairs, it is clear that the secretary for Maori Affairs JK Hunn was primarily concerned with the protecting the legitimacy of prevailing Court practice, rather than the rights of landowners: ‘It is undesirable that charging orders heretofore granted should be open to question on the ground that the rates have not been properly demanded. Nor is it desirable that the system which has grown up should be impugned in any way for the future.’¹⁹ These concerns were subsequently met by the addition of a fifth subsection to Section 107, providing that the service of a rate demand on the person appointed for representation purposes should be sufficient service of a demand for all purposes; together with a retrospective clause validating all such previous demands.

7.1.3 Problems with receiverships

At the same time that the Maori Trustee was taking over the administration of so many blocks in Te Rohe Potae for the purposes of lease or sale as a result of local body action under Part 25 of the Maori Affairs Act 1953, elsewhere in New Zealand the Maori Trustee was beginning to tire of its role as rates collector under the receivership provisions of the Rating Act 1925. In 1952 it was suggested by the Maori Trustee Head Office that the considerable work involved with receiverships was the result of local body ineptitude: ‘if any reasonable enquiry had been made by the County Council as to who occupied the lands they could have collected many of the rates and saved the time of the Court and our officers.’²⁰ Instead, as noted above in many cases the occupiers had not even received demands. Three years later similar in-house complaints were made that the work involved in administering receivership orders for often

¹⁷ Secretary Maori Affairs to secretary Internal Affairs, 28 September 1962, in above; DB:489

¹⁸ Judge Porter ‘Rating of Maori Lands’; DB:482-85

¹⁹ Secretary Maori Affairs to secretary Internal Affairs, 28 September 1962, in above; DB:489

²⁰ JH Flowers to Wellington district officer, 18 December 1952, MA 1 764 54/21; DB:805

insignificant sums was scarcely warranted, particularly as the Maori Trustee worked on a commission basis. It was also noted that in many cases it was later found that no income could be obtained from the land in question ‘so that neither the Maori Trustee nor the Local Body has obtained any benefit from the order.’²¹ By May 1955 the Maori Trustee had decided to decline to be appointed receiver unless his precedent consent had been obtained. District officers were authorised to give consent on his behalf only in circumstances where there was a substantial amount involved; where all proper efforts to collect the amount had been made and failed; and where the collection would be a virtual impossibility without the intervention of the Maori Trustee.²² The decision was also relayed to Maori Land Court judges and seems to have resulted in a tightening up of the requirements surrounding the application for charging orders, placing the onus on local bodies to show for example that rates demands had been served, and that the land was in fact capable of an economic return. Working in the Rotorua district from 1956, Judge Prichard overcame local body complaints about lax and ineffective Maori Trustee administration by appointing the county clerks as receivers instead. In 1962 the Chief Judge claimed that the success of this policy could be seen ‘in the grass where previously there was fern and scrub.’²³ It was not a popular move among affected Maori landowners however: minutes of a New Zealand Maori Council meeting in July 1962 record the objection to the county clerk acting as receiver, and the opinion that receivership leases should be limited to Maori.²⁴

7.1.4 Problems with old charging orders

Unlike unsecured rates that were written off after a number of years (six, in the case of Maori land after 1967), rates arrears on Maori land that had been secured by a charging order remained on the title until they were discharged. By 1960 one of the issues being raised was the status of charging orders that were now 30 years old. Did they still have to be paid? And were local bodies attempting to recover these old debts entitled to do so? The Limitation Act 1950 had introduced a 12-year limit on any action to recover such charges against property, whether real or personal, from the date when the debt was first incurred. The upshot of legal advice sought from the Crown Solicitor in 1959 was that the expiry of the time for limitation did not extinguish the debt, it merely prevented the local bodies from trying to enforce the charge through application for receivership or vesting.²⁵ Orders could not be discharged until they had been paid.²⁶

²¹ ‘Receivership orders – Wellington DO’ to Blane, nd, in above; DB:806

²² Maori Trustee to all district officers, 10 May 1955, in above; DB:809-810

²³ Chief Judge to secretary Maori Affairs, 12 February 1962, MA 1 405 20/1/1 part 8; DB:487

²⁴ ‘Extract from minutes of meeting...’, 26-27 July 1962 in above; DB:488

²⁵ Crown Solicitor to secretary Internal Affairs, 8 January 1959; ABJZ 869 W4644/45 19/2/11 part 1; DB:1202-05

²⁶ Chief Judge to Judge Porter, 17 March 1959, in above; DB:1210-12

The ‘hoary old question’ of statute-barred rates continued to linger because even though recovery might be statute-barred, the charging orders remained an encumbrance on the title. By 1967 the Department’s office solicitor further considered that any money received by the Maori Trustee as a receiver appointed under the Rating Act 1925 must be applied to pay off the rates charge, even if it was more than 12 years old. On the other hand he also advised the Maori Trustee to apply to the Court for a discharge of the order in cases where no monies had been received, on the grounds that the money was irrecoverable under the 1950 Act.²⁷

The issue was tested by Otorohanga County Council in 1968, chasing up payment from the Maori Trustee of an old 1935 charging order. The Maori Trustee had received \$30 in May 1967 on account of a block that had recently been partitioned, and had initially offered the money to the council in full settlement of the secured debt, an offer the council had refused. In court the Maori Trustee argued that as the county had taken no steps to enforce the charge within 12 years, it was no longer entitled *prima facie* to receive the money. Although the Court agreed with this view, it nonetheless ordered payment of the sum of \$30 to the council, less \$15 costs awarded to the Maori Trustee, ‘because the Court considers the indemnity sought by the Maori Trustee from the County Solicitors as a condition of payment of the full sum of \$30 to have been entirely reasonable and these proceedings would have been unnecessary had that condition been met.’²⁸

The following year Waitomo County Council tried to have unpaid rates from lands administered by the Maori Trustee deducted from compensation monies owing by the council. Maori land had been taken for road and the council sought to deduct four years of unpaid rates (\$24.86) off the amount of compensation (\$65), on the grounds that ‘[i]t is the policy of this Council not to pay out monies to any debtor, including rates or any other services that may have been rendered.’²⁹ Although the amounts were small, the Hamilton office was reluctant to create a precedent. When the matter was referred back to Head Office, advice was also sought on the question set out above, whether alienation proceeds were to go towards paying off old charging orders where no steps had been taken in the past 12 years to enforce the order. Reference was made to a recent sale of Te Kuiti A36, where two old charging orders dating back to the 1930s were noted on the Maori Land Court title, but had never been registered in the Land Transfer Office.³⁰ With regard to the first issue, the office solicitor advised that the payment of compensation had nothing to do with the issue of unpaid rates, and that the council could be sued for the full amount. The

²⁷ Office solicitor to assistant Maori Trustee, 30 January 1967, in above; DB:1213-19

²⁸ Decision, Judge Brook, 30 August 1968, AAMK 869 W3074 270b 20/1/1 part 9; DB:966

²⁹ Waitomo County Council clerk to Maori Trustee, 20 February 1969, ABJZ 869 W4644/45 19/2/11 pt 1; DB:1220

³⁰ Hamilton district officer to Head Office, 3 April 1969, in above; DB:1222-23

outcome of this dispute is not known – the council’s subsequent offer to reduce the deduction to two years’ unpaid rates was again referred back to Head Office with the reiterated opinion that ‘we should object as a matter of principle’, but there the paper trail ends.³¹ With regard to the issue of old charging orders, the solicitor advised that those which had been registered against the title should be paid off, and those not registered ignored.³² When the same issue was raised by Gisborne staff the following year, the Maori Trustee advised:

The Limitation Act bars the enforcement of these charges by action – it doesn’t make them non-payable. In line with the advice we have had, the procedure therefore is to write to the local body, asking for no more than particulars of outstanding rates. If the local body comes back with rates that are secured by charging orders 12 years or more old, registered or unregistered, you could point out that these are statute barred. If the Council still insists on payment, you should try and reach a compromise. If all this comes to nought, the rates will have to be paid.³³

7.1.5 *Rising land values*

Rising land values, particularly in sought-after coastal areas or as a result of urban expansion, have brought with them new pressures on Maori land, as a result of renewed local body interest in collecting the correspondingly increased rates levied in such areas. La Rooij has documented the impact of this phenomenon with regard to Tauranga. There is also a spectacular example from the mid-1960s in Maori Affairs files relating to unimproved traditional family land on the shores of Taupo, outside the inquiry district. Existing housing on this block had been condemned, with the Maori Affairs Department refusing to provide loan finance for new homes ‘because it was obvious that they would find definite hardship in meeting the local body rates which could be expected to continue to substantially increase with each recurring re-valuation. The fact that some of the owners ... are already in arrears with rate payments bears out this view.’³⁴ In the draft response prepared for the Minister of Maori Affairs, the original complainant was advised to sell the land ‘for the highest obtainable price and then use the proceeds to build a new house, with departmental assistance, on a more modestly valued section.’³⁵ In the letter she was eventually sent, Walter Nash advised her there was little he could do. The landowner was steered towards provision in the Maori Affairs Act 1953 regarding the right of objection to the notice of valuation and advised to seek legal counsel: ‘If you do not lodge an application, or pay the rates, it seems fairly certain

³¹ Hamilton district officer to Head Office, 8 July 1969, in above; DB:1233

³² Office solicitor to assistant Maori Trustee, 25 May 1969 in above; DB:1230

³³ Maori Trustee to Gisborne office, 10 August 1970, in above; DB:1236

³⁴ Assistant district officer to Head Office, 21 November 1966, AAMK 869 W3074 720b 20/1/1 part 9; DB:950

³⁵ Ministerial draft reply, Minister of Maori Affairs to Koko, in above; DB:949

that the Court will make an order for the sale of your section.³⁶ Evidence of the impact of this issue within Te Rohe Potae has not been located, but it is reasonable to assume that the same pressures would have been operating, particularly in coastal districts like Raglan and Mokau, although perhaps not to the same extent as Taupo or Mount Maunganui near Tauranga.

The impact of valuation on Maori land was considered by the government rates inquiry in 2007, in particular the extent to which valuations should take account of the physical, legal and cultural constraints on the use and sale of Maori land. The report found that:

It is clear that, for many Māori, the idea of basing the rating of Māori land on a hypothetical market value is alien and difficult to accept. It is only rarely that Māori land can be sold and then only after a long process and with the agreement of the Māori Land Court.³⁷

The inquiry canvassed recent court action which had found that the limitation on the ability to alienate Maori land under Te Ture Whenua Maori Act had to be taken into account in fixing land values under the Valuation of Land Act. Those making submissions to the inquiry in 2007 argued that the resulting national guidelines set down by the Valuer General, providing for a discount of between 5 and 15 per cent on the valuation of Maori land, were still too narrow.³⁸ In the result, the panel concluded that the current way of valuing Maori land was inappropriate and wrong, and that a much more fundamental approach was required to resolve this and other related issues to do with the rating of Maori land.

7.2 Legislative Developments

7.2.1 *Rating Act 1967*

The Rating Act 1967 was the first change to rating legislation in over 40 years, and the implications for Maori land need to be viewed in conjunction with the Maori land legislation of the same year, which in turn was heavily influenced by the Prichard-Waetford report with its call for better utilisation of Maori land. It was argued that most of the ills associated with Maori land were due to multiple and increasingly fragmented ownership. Included in the resulting Maori Affairs Amendment Act 1967 were provisions for the compulsory purchase by the Maori Trustee of ‘uneconomic’ interests in a block; and to ‘Europeanise’ Maori freehold land, by declaring land with four or less legal and beneficial owners to no longer be Maori land, and removing it from the jurisdiction of the Maori Land Court. In terms of rates enforcement, rates from such properties could now be recovered under general provisions. The other rating implication was

³⁶ Minister of Maori Affairs to W Koko, 29 November 1966, in above; DB:951

³⁷ *Funding Local Government*, 13.45

³⁸ *Ibid*, 13.44-53

that all unregistered charging orders would be wiped as a result of the change in status (s.7), and registered charging orders older than 12 years similarly discharged (s.8(2)).

The Rating Act 1967 attempted to deal with some of the issues that had been identified. It specified that the person in actual occupation had to be sent a rates assessment (s.152). In the case of unoccupied land, the provision empowering the court to appoint a nominated occupier to receive notice of rates levied was carried over from the old legislation (s.150(2)). The delivery of the rates assessment to this court nominee constituted a levy of rates on the land, although again the nominee was only liable to the extent of their share. In cases where Maori freehold land was owned by no more than two people, their names had to be placed in the owners' column of the valuation roll. For multiply-owned land not vested in a trustee, the word 'Maoris' was to be entered into the owners' column, and in the absence of any occupier or nominee, the same 'Maoris' was to be entered in the occupiers' column (Section 150(9)). In this respect the Act was no improvement on previous practice.

The provision for securing rates through charging orders was maintained, the timeframe to do so reduced to six months, with a stipulated minimum debt of \$6. Before making an order the Court was required to be satisfied that, in the case of vested lands, all reasonable steps had been taken by the local body to obtain payment from the trustee; and in the case of occupied land, the local body had taken proceedings to recover the amount and had been unsuccessful (s.153(7)). Such charges were to remain effective notwithstanding that the land may have become European land.

Importantly, the receivership provisions of the 1925 Act were ended and in their stead the 1950s vesting mechanism was reworked and incorporated into the Act. On making a charging order, the Maori Land Court was now required to consider the future use of the land and the future payment of rates. Local bodies were given an advisory role in the Court's deliberation as to the best use of the land. If the Court was satisfied that the alienation of the land, whether by lease or sale, would result in a better utilisation or assure future rates payment, it could without further application make an order under Section 438 of the Maori Affairs Act 1953 vesting the land in a trustee for lease or sale. Ministerial consent to permanent alienation was no longer required. Beneficial owners were given two months grace in which the order could be cancelled, providing that outstanding rates were paid and the Court satisfied by the owners' provision for future payment.

Others have argued that the Rating Act 1967 was not a radical departure from previous legislation: the charging order process had been retained and arguably tightened to avoid repeating the accrual of debt on properties regardless of the status of occupancy or its ability to sustain the charge. The Act had cleared up ambiguities surrounding the service of rates charges on occupiers. It is also pointed out that the power to

sell Maori land for unpaid rates predated the 1967 Act.³⁹ On the face of it this was true. However, this misses the crucial point that the effect of the 1967 legislation was to render what had been considered extraordinary provisions to a matter of course. In the 60 years that Maori land had been deemed to be fully liable for rates, allowing the ultimate enforcement through sale had been the closely guarded preserve of the Native Minister, and seldom utilised. The vesting legislation of the 1950s so heavily prevailed upon in Te Rohe Potae which provided for the compulsory vesting of Maori land for lease or sale on the grounds of being essentially unutilised and non-ratepaying was similarly described by those responsible for it as ‘drastic’. The effect of the 1967 Rating Act was to apply the same rationale to the framework of Maori rating generally, to normalise what had been regarded as drastic just 15 years before. The repeal of Part 25/1953 in 1970 did not much matter, because under the new rating legislation this power had been given to the Court as a matter of course. Every charging order application now carried with it the potential threat of compulsory permanent alienation.

There is not a lot of evidence relating to the impact of the new law in Te Rohe Potae. In 1974 an inquiry from the Minister of Tourism, coupled with ‘rather extravagant’ negative publicity about the sale of Maori land for unpaid rates, prompted Maori Affairs to investigate the extent of forced sales.⁴⁰ In April 1974 it reported that in the six years since the legislation was passed, an average of nine blocks per year had been sold for unpaid rates. The accompanying schedule reveals that most of these occurred in the districts of Whangarei and Rotorua.⁴¹ No sales or leases for unpaid rates were recorded in the Hamilton district, the deputy registrar commenting that ‘My impressions gathered over the years are that Judges are loath to make Rate Charging Orders and only do so as a last resort, whilst local bodies seldom if ever ask for the power of sale.’⁴² Falling within the district of Wanganui, a half-acre section had been sold by public tender in the borough of Taumarunui.⁴³ It should be remembered however, that no such records were kept of forced sales with regard to lands which had subsequently been declared European land under the 1967 Amendment Act. The change in status was often done without the knowledge of the owners themselves, and the continued sale of such lands for the non-payment of rates was noted as an ongoing issue in the government’s rating inquiry in 2007.⁴⁴

The 1967 revision had not resolved the issue of liability for unoccupied, multiply-owned land. A draft response prepared for the Minister of Maori Affairs in 1974 to one such owner stated that he could offer

³⁹ Towers, p 312; La Rooij, p 106

⁴⁰ Secretary Maori Affairs to Minister Maori Affairs, 9 April 1974, AAVN 869 W3599 106 20/1/1 part 10; DB:1323

⁴¹ With above; DB:1324

⁴² Hamilton deputy registrar to Head Office, 11 March 1974, in above; DB:1317

⁴³ Schedule attached to above: DB:1319

⁴⁴ *Funding Local Government*, 13.25-27

her ‘no practical solution to the problem as to who pays the rates.’⁴⁵ It was claimed that it was impossible for the rating authority to calculate and send out individual rates demands, and that the onus was on the owners to arrange the payment of rates as they fell due (notwithstanding the lack of notice). The parting advice that this particular owner – one of 52 – arrange with ‘as many of the owners as possible to pay their share of the rate to yourself and you then pay the rates to the rating authorities’ was scratched from the letter that was eventually sent.⁴⁶ Alienation by lease or sale was posed by office staff as another solution to the problem.⁴⁷

The evidence suggests that while the sale of land for unpaid rates was now possible, it did not result in the same kind of local body ‘bombardment’ that Te Rohe Potae had experienced in the 1950s. Unwittingly echoing complaints made more than half a century before, in 1979 the Opotiki County Council proposed a remit for Crown reimbursement of uncollected Maori rates on the grounds that ‘proceedings in the Maori Land Court are so time consuming and expensive, and hold out so little hope of success, that they are for all practical purposes, worthless, particularly in a County such as Opotiki where there are so many pieces of land involved.’⁴⁸ The Government, it was contended, should recognise that the issue was a political one, and make grants for unoccupied Maori land until such time as the two rating laws were brought into line. ‘Maori land rating was a sacred cow of the Government’s own creation, and it was up to the Government to provide sustenance for the beast.’⁴⁹ The remit was carried.

By the 1980s Maori ‘sensitivity’ could be said to have won out over the Cabinet Working Committee’s preference for putting Maori land on the same basis as European land.⁵⁰ The procedure for recovering rates from Maori land was left largely intact by the revision of rating legislation in 1988, with the important exception that Maori land could no longer be vested in a trustee for sale. Under the Rating Powers Act 1988 the receivership provisions were reinstated, and the vesting provision kept, but such receivers and trustees were restricted to leasing the land to recoup the rates debt. A fundamental shift had occurred within the bureaucracy: asked for feedback on the proposed Rating Bill in 1986, the Hastings registrar commented that ‘it appears that the Maori Land Court is being called upon to make orders purely for the purpose of facilitating the needs of local authorities, and possibly, relieve those authorities of any responsibilities.’⁵¹ He recommended that the provision for sale be removed because ‘these provisions

⁴⁵ Minister Maori Affairs to S Doddington, nd, AAVN 869 W3599 106 20/1/1 part 10; DB:1321

⁴⁶ Ibid, see also file note, 19 April 1974; DB:1325

⁴⁷ Ibid

⁴⁸ ‘Rating Act – recovery of rates from unoccupied Maori freehold land’, 30 October 1979, in above; DB:1327

⁴⁹ Ibid

⁵⁰ Minutes of Cabinet Committee, 8 July 1982, in above; DB:1237-38

⁵¹ Hastings registrar to Head Office, 3 March 1986, ABJZ 869 W4644 59 20/1 part 2; DB:1247

have been used in the past not only for the recovery of outstanding rates but also for convenient sales to European owners of adjoining land.’⁵²

Most significantly for this report however is the admission in the House of the Acting Minister of Local Government, Jonathan Hunt, that the end of the forced vesting and sale of Maori land in the rating legislation was inspired by the Treaty of Waitangi:

Submissions made to the committee contended that the provisions in the present Act for the forced sale of Maori land to recover unpaid rates were contrary to the Treaty of Waitangi. It is difficult to refute that view. In addition, it has become evident in recent years that this provision has not proved to be a remarkably effective means of enforcing the payment of rates.⁵³

Undoubtedly one of the submissions Hunt referred to was that by Dr Kenneth Palmer, of Auckland University, which was subsequently published. Palmer argued that the the continued provision for rating sales to enforce collection was ‘*patently contrary*’ both to the express words of the Treaty of Waitangi, and to the principles and spirit within:

The promise by the Crown to safeguard undisturbed possession of Maori land, as long as the occupiers individually possess and desire to retain this land in their possession, could not be reconciled with the former power of sale for rating default. At no time in the history of this country have the Maori people collectively consented to the imposition of rating liability leading, upon enforcement, to the risk of loss of land. The imposition of the rating sale option of Maori land can be distinguished from other forms of liability which may result in loss of a property interest or right. The agreement to a mortgage of a property, or the voluntary incurring of debts leading to bankruptcy, with the risk of sale of the property interest, both contain an element of choice, in which the property is used as a security. By contrast, the rating liability charge arises as a matter of status rather than choice.⁵⁴

Palmer considered that the resolution within the 1988 Act, with the receivership provisions to lease the land for a period necessary to recover the rates, must be greeted as ‘a reasonable and desirable solution, and in accordance with the Treaty principles.’ And while he was presumptuous enough to claim that the Waitangi Tribunal would ‘almost certainly come to the same conclusion’ about the enforced sale of land

⁵² Ibid

⁵³ Hunt, NZPD, 7 June 1988, p 4163

⁵⁴ KA Palmer, ‘Rating Powers Act 1988 and Maori Land’ in *New Zealand Recent Law*, (Auckland, Legal Research Foundation, 1988) vol 14 no 8

for rates as being contrary to the Treaty of Waitangi, he fell short of questioning the imposition of rating liability per se in terms of the Treaty.

As it happens, the enforcement of rates through forced sale has been considered by the Tribunal in its recent report on the Tauranga Moana inquiry. It has indeed found the legislative provisions to be ‘directly at odds’ with the plain text of article 2 in both the Maori and English versions of the Treaty, and the Crown’s enactment of legislation enabling receivership sales to be a Treaty breach.⁵⁵

The Local Government (Rating) Act 2002 has since given the Maori Land Court more discretion to determine occupier liability and further tightened up conditions that must be met before a charging order can be made.

7.3 Rates remission

Since 1924 local authorities have been empowered to remit the payment of any rates on land owned or occupied by Maori, or to postpone payment, as it thinks fit. The fact that this power has seldom been used goes back to the economic implications of extending such rates relief. As shown in this report, the Government has proven reluctant to repeat the experiment of 1882 and take over the financial responsibility for the remission of rates on unproductive and unoccupied Maori land – essentially classification – despite its averred belief in the equity of doing so. By default, the cost of non-payment on such lands has fallen locally. Current provisions in the Local Government (Rating) Act 2002 (s.114) allow local authorities to remit all or part of the rates on Maori freehold land if a rates relief policy has been adopted that includes provision to do so, and the local authority is satisfied the criteria in the policy have been met. The Act sets out matters to be taken into account by local bodies in formulating such a policy, one of which is the avoidance of further alienation of Maori freehold land. Again, rather than decide on a national basis how these factors are to be given substance, Parliament has effectively shifted this responsibility to a local debate, to be thrashed out by each community. As a result, the degree to which tangata whenua within Te Rohe Potae can obtain rating relief depends on which local government district their lands fall into. Waikato District Council has developed policies which provide, among other things, for the remission of rates for unproductive or unoccupied multiply-owned Maori freehold land; for land which cannot be developed due to inaccessibility or topography; for land protected for historical or cultural conservation purposes; or for natural conservation purposes.⁵⁶ The Otorohanga District Council has a similar policy for the remission of rates on Maori freehold land that is unoccupied, unproductive,

⁵⁵ Waitangi Tribunal, *Tauranga Moana 1886-2006*, p 395

⁵⁶ Waikato District Council, ‘Long-Term Council Community Plan’, vol 2, pp 71, online at <http://waikatodistrict.govt.nz>

inaccessible, set aside for non-use for natural conservation (whenua rahui), or only partly used. Another stated objective of rates remission is said to be the fostering of development where it is considered that rating based on the rateable value would make the use of the land uneconomic.⁵⁷ Waitomo District Council has a similar policy based on two categories of Maori freehold land.⁵⁸ The first relates to land which is unoccupied or undeveloped and better set aside and protected from use because of its special cultural or natural features, to protect the flora and fauna under a formal arrangement, or where the land has no legal or practical road access. A second category has been designed where there is an intention to make economic use of otherwise unoccupied and undeveloped land, providing a progressive stepped application of full liability for the payment of rates over a five-year period. All these councils require owners to lodge annual applications which are considered on a case by case basis. Waipa District Council does not appear to have developed any remission policies.

The remission of rates was considered by the 2007 Rates Inquiry, primarily it seems, from the viewpoint of realising the productive potential of much Maori land with the goal of it eventually contributing towards rates revenue. Impressed with the way in which councils had adopted and implemented remission policies, the 2007 rates inquiry was nonetheless concerned with the lack of consistency in approach and the apparent limited success of the policies in encouraging the development of Maori land. It proposed that the Government take a central role in the formulation, with local government, of a national approach to build effective policies and build capacity in councils to work directly with landowners. To this end it suggested:

- the use of a register or remission list;
- opportunity to remit up to 100 per cent of rates;
- full recognition of the factors/criteria to be used (unoccupied and unutilised, landlocked, fragmented ownership, conservation value, unsecured legal title, isolated and marginal land capability, a lack of management structures, services provided (or not provided));
- a proactive approach rather than councils receiving applications from landowners;
- use of liaison officers to work with Māori landowners;
- the inclusion of land that was Māori land but transferred to general land through the 1967 amendment;
- a proactive approach linking land development and rates remission;

⁵⁷ Otorohanga District Council 'Long-Term Council Community Plan 2009/10 to 2018/19, online at <http://www.otodc.govt.nz>

⁵⁸ Waitomo District Council, 'Rates Remission Application Form Maori Freehold Land', online at <http://www.waitomo.govt.nz>

- regular inspections to ensure land complies with the policy; and
- specific reference to the matters listed in Schedule 11 of the Local Government Act 2002.

The Crown's failure to develop a coordinated and consistent approach to rate remission policies for claimants' land is the subject of claim Wai 1495/1616 by Pearl Comerford. A critical factor in any remission scheme (again, essentially the classification proposal of old), is the question of who bears the cost. The 2007 Panel considered that there was no justification for the government to pick up the responsibility of unpaid Maori rates in general (discussed at 7.3.3). With the benefit of hindsight that this report brings however, it is clear that the success of any scheme – based on the inability of Maori land to sustain rates – will depend upon the willingness of the government to treat it as a national issue, and provide for it accordingly.

7.3.1 De-rating: Taumarunui County Council experience

Taumarunui County Council chose a different path with regard to the rating of unproductive Maori land, opting first to use its recommendatory powers to have land exempted from 1933-1955, and then developing a de-rating policy from 1966-1981 to remove unproductive lands on a case by case basis. Most of the land blocks affected lie outside the Inquiry District's south-eastern boundary, on the western shores of Lake Taupo, although a number of Rangitoto-Tuhua blocks were included in this strategy. The history of exemption has nonetheless been included because it demonstrates an alternative response to the issue of non-collection. It also provides an insight into the government's mindset by the late 1960s, when the Minister of Maori Affairs would rather insist that the Crown purchase Maori land than use the available statutory provisions to have the land exempted from rating.

As part of the consolidation arrangements from 1928, in 1933 over 90 blocks were gazetted exempt from rating in Taumarunui County under Section 104 of the Rating Act 1925. The land was mountainous, remote and for many years received no council services such as access. By December 1954 the milling of timber in this area, together with renewed interest in its farming potential, prompted the council to approach Maori Affairs to have the blanket exemption revoked. In response, the district officer at Wanganui cautioned the need to conserve vulnerable high altitude lands, while the officer in Auckland drew attention to the fact that changes wrought by consolidation would need to be taken into account when the lands were placed back on the rating roll.⁵⁹ The revocation went ahead.⁶⁰

⁵⁹ Wanganui district officer to secretary Maori Affairs, 24 December 1954, ABJZ 869 W4644/59 20/1/16 part 1; DB:1266

⁶⁰ *New Zealand Gazette* 10 March 1955, p 366

A decade later the council was struggling with the consequences of doing so. Having the unproductive lands on the rating roll meant that the rates burden on partially developed farms in the area was up to three times higher than the rest of the county. In 1964 the council's attempt to solve the problem through local legislation was opposed by Treasury.⁶¹ In March 1966 council agreed in principle to the de-rating of undeveloped Maori land in the Western Shores area and the county clerk was instructed to advise landowners whose properties might qualify and to prepare schedules for the 1966/67 rating year.⁶² Details were sought from the Valuation Department as to the separate values of the developed/undeveloped areas of the assessments concerned, and rates were completely remitted on the unimproved portions. The Maori Trustee was also approached for information regarding existing cutting rights. The policy was based on Section 156 of the Rating Act 1967 which provided that a local body might, if it thought fit, remit the payment of any rates either wholly or in part due on Maori freehold land. It was implemented from 1967. Representative owners had to apply for the relief each year, each application being considered by council on a case by case basis in February. The application form spelt out that undeveloped land meant land in its natural state, on which neither labour nor capital had been spent, although it could include land which had reverted to scrub and second growth. Owner representatives were to indicate the use of the land, which portions were developed and undeveloped, whether it had legal road access, and whether they had any development plans for the future. The policy was not to apply to areas zoned residential, nor to areas for which timber milling grants had issued. Each year the affected lands would be reviewed, and areas which had changed ownership, or which had undergone development, or which had become subject to cutting rights, would be brought back on the roll. The council appears to have been proactive in administering the scheme and there are many examples in the county file of reminder notices to owners and council invitations to apply. It is also evident that the scheme grew over time, from 16 applications in the first year of operation resulting in rates relief of \$3345, to 49 applications five years later amounting to some \$24,921 in rates relief.⁶³

The rates remission scheme endured until the 1980/81 year. When long-term CEO SA Hunter left the council that year, the scheme appears to have lapsed.⁶⁴ In 1991, under Ruapehu District Council administration, Hunter was brought back to help the council develop a policy to deal with the ongoing issue of the non-collection of rates from Maori land. Council linked the issue to fostering land utilisation and also sought to reduce the annual cost of chasing uncollectable rates.

⁶¹ Taumarunui County Council clerk to secretary Maori Affairs Department, 17 August 1967, ABJZ 869 W4644/59 20/1/16 part 1; DB:1271

⁶² File minute, March 1966, 2/5/3 Rate Exemptions Maori Land, Ruapehu DC; DB:1879

⁶³ 'Rate Remission Undeveloped Maori Land 1972/73', in above; DB:1915-19

⁶⁴ SA Hunter, 'Maori Land Rating – Ruapehu District', in above; DB:1940

Hunter reported in February 1992. Of the 1131 assessments with outstanding rates in the Ruapehu district, 213 of these were identified as undeveloped Maori land. A further 40 properties, while not coded by the Valuation Department as Maori land, were thought to be owned by Maori.⁶⁵ About one-quarter of these lacked access, mostly in the Waimarino Ward. One list shows 69 assessments in the vicinity of Ongarue.⁶⁶ Eighteen Rangitoto Tuhua blocks, 21 town sections in Waimiha and 4 sections in Ongarue were identified on a subsequent list.⁶⁷ Inspections were made of the undeveloped properties and Hunter recommended that in most cases, the outstanding rates be written off, and the council seek an order in council declaring the land to be non-liaible. In a handful of cases it was recommended that the council remit the rates on the undeveloped portions of the block. Where evidence of occupation had been found, council staff were to investigate further.

In terms of rating legislation, Hunter was of the view that current provisions for the collection of rates from multiply-held Maori land made the practice of entering the occupiers' name and then sending rate demands, penalty notices and threats to sue 'a waste of time and paper'.⁶⁸ Although some people might be intimidated into paying rates, he claimed there was no legal effect. As rates of Maori land were statute barred after six years a perpetual cycle of billing, striking penalties, recording and writing off followed from land which in the main had no prospect of producing rates. The inability to hold owners of multiply-owned Maori land to account, and the undeveloped nature of much Maori land, were reflected in the recommendations made to council in February 1992:

- That all Maori freehold land owned by not more than two people be liable for rates in the same manner as general land, and collected in the usual manner;
- That rates be collected from the trustees of Maori freehold land to the extent of revenue derived from the land;
- That council accept the principle of de-rating Maori freehold land in multiple ownership, through seeking an order in council to have unimproved lands exempted from rating for the 1992/93 financial year;
- That arrears on these properties be written off;
- That the council accept the principle – along the lines of the earlier scheme – of annually inviting application for the remission of rates based on area of developed/undeveloped land in any assessment; and

⁶⁵ Ibid; DB:1933

⁶⁶ Ibid, 'Undeveloped Land Rate Arrears Schedule and Recommendations, Ohura Ward'; DB:1946

⁶⁷ Schedule with memo, Hunter to Ryan, 26 February 1992, in above; DB:1949-50

⁶⁸ 'Maori Land Rating – Ruapehu District', in above; DB:1939

- That Maori land leased or alienated through the Court be considered for annual rate remissions to encourage development, rising from 12.5% in the first and every succeeding year, until reaching 100 per cent in year 8.⁶⁹

Hunter maintained that such a policy would ensure similar treatment for all Maori land in the same condition; promote the use of undeveloped land suitable for development which would thereafter produce rates; remove accumulated arrears from the rates records and prevent fresh accumulation; and eliminate the cost and time wasted levying and recording uncollectable rates.

The outcome of the review is not known. Follow-up work was conducted by the rates officer in May 1992, where the file stops. Currently Ruapehu District Council has no rates remission policy specifically targeting either undeveloped or multiply-owned Maori land. There is provision for the remission of rates ‘to provide rates relief on land that is of very low value, of little use, and is in remote areas’.⁷⁰ To qualify, the land must be less than 4048 square meters (1 acre), be located in a remote area, have no legal access, and have a rateable value less than \$1001. Few of the sections listed in 1992 would fit this criteria. The council also currently offers for tender land that has been declared abandoned by the District Court in order to recover unpaid rates in terms of Section 77(1) and (2) of the Local Government (Rating) Act 2002. ‘Abandoned land’ can apply to any assessment for which rates have not been paid for more than six years. In September 2010 the forced rating sales by the district council of more than 60 properties in Ohura, Taumarunui, Owhango and Raetihi was reported on Television New Zealand news, with affected landowners claiming that the annual rates bore no relation to either land values or council service.⁷¹ The relatively high average rates were attributed to the small population, with the district council spokesperson stating: ‘The council is quite keen to make sure we get good ratepayers onto those lands, and actually finally deal with them.’ Properties posted on the council’s website at the time of writing include a number which appear to be owned by Maori.

7.3.2 De-rating: the government response

When Taumarunui County Council resolved in 1966 to begin a rates remission scheme to deal with the effects of the large amount of non rate-producing Maori land, it also took steps to have the land declared exempt from liability, in terms of Section 104 of the Rating Act 1925. In February 1967 a model order in

⁶⁹ ‘Ruapehu District Council Maori Land Rates Policy Adopted February 1992’, in above; DB:1932

⁷⁰ Ruapehu District Council, ‘Rates Remission Policy’, online at <http://ruapehudc.govt.nz>

⁷¹ TVNZ, ‘Mountain views for a few dollars’, 1 September 2010, online at <http://tvnz.co.nz/national-news/mountain-views-few-dollars>

council was forwarded to Internal Affairs for gazettal with a schedule of 84 blocks, which in turn was passed on to Maori Affairs.⁷² The response was not encouraging:

The Minister of Maori Affairs takes the view generally that unless there is a very compelling reason to the contrary, all lands, both Maori and European should be expected to pay rates and it seems unlikely that he would support the Council's present recommendation without a very good case being made why the exemption should be granted.⁷³

By way of further explanation, the county council reiterated that the exemption was an available remedy which would ease the rating burden on partially developed Maori land; that it would accelerate development by incorporation; and that it would ensure undeveloped lands were not burdened with arrears which might deter future alienation and settlement. The Department of Maori Affairs was assured that each year the council would review the situation, and that '[t]he Council is unanimous in its decision, and considers the action in the best interests of the County.'⁷⁴

In fact, the council's request came on the heels of discussions between the secretary for Maori Affairs and the Director General of Lands 'wherein it was agreed that when the Maori Land Court or a local body recommends that a block of Maori land be exempted from rates [the Department of Lands and Survey] should be prepared to make an offer for the land.'⁷⁵ With this in mind, the facts were placed before the Minister of Maori Affairs, Ralph Hanan, in October 1967:

Having regard to the present shortage of finance and of the fact that it is highly improbable that the Crown in the foreseeable future will be in any position to offer to purchase these lands, it is requested that you consider and decide in principle whether in this case:

- (a) The exemption is to be for a period of one year only.
- (b) The exemption is to be total, subject to review each year on the basis recommended by the Taumarunui County Council ...⁷⁶

The Minister was said to have looked 'with considerable disfavour on the ... application covering, as it does, such a very large area of land.'⁷⁷ Rather, the district officer at Wanganui was asked to report on the

⁷² Taumarunui County Council clerk to secretary Internal Affairs, 13 February 1967, 2/5/6 Maori Unoccupied De-rating, Ruapehu DC; DB:1960-62

⁷³ Secretary Maori Affairs to clerk, Taumarunui County Council, 21 March 1967, ABJZ 869 W4644/59 20/1/16 part 1; DB:1270

⁷⁴ Taumarunui County Council clerk to secretary Maori Affairs, 17 August 1967, 2/5/6 Ruapehu DC; DB:1964

⁷⁵ Secretary Maori Affairs to Director General Lands, 7 November 1967, ABJZ 869 W4644/59 20/1/16 part 1; DB:1278

⁷⁶ Deputy secretary Maori Affairs to Minister Maori Affairs, 9 October 1967, in above; DB:1275-76

potential use of the lands: those which might be developed, those which might be subdivided, and those which were incapable of either. The Minister suggested that lands capable of development might be gazetted under Part XXIV: even though the Department would not be in a position to undertake development for a number of years ‘at least this would look after the rating question.’⁷⁸

The report was completed by February 1968, or at least for the 33 sections that fell within the Aotea district. Mention was made that many of the blocks farmed by incorporations were already receiving rates relief from the Taumarunui County Council.⁷⁹ Reporting on the remaining 43 blocks in July 1968 the field supervisor concluded that many of the lands were subject to the Ministry of Works development of the Tongariro Power Scheme and that as a result, no definite plans could be made by the owners with regard to development, alienation or even occupation. ‘Under these circumstances, rating could not really be levied on these lands.’⁸⁰ Using the field officer’s work, the lands were then classified by the district officer into European land (3); land under development, incorporation, leased or farmed (22); lands capable of development (1); land capable of development in conjunction with other land (23); land with subdivisional potential (13); lands incapable or not economic to develop (18); land in the Tongariro National Park (1); and land connected with Tongariro Power Station (11).

By August 1968 the administration officer in Wellington had relayed this information up the bureaucratic hierarchy. In doing so, he recommended that the Minister decline to support rating exemption for land currently farmed or capable of being farmed, and that he should agree to exempt the lands identified as being incapable of development, on the basis that their status would be reviewed by Taumarunui County Council annually.⁸¹ It was not until April 1969 that the contents of this letter were repeated to the Minister by JM McEwen, Secretary for Maori Affairs.⁸² The recommendation elicited the following comment from Hanan: ‘If lands are incapable of development or not economic for development then they are worth very little and consideration should be given to purchase by the Crown.’⁸³ Given the Minister’s uncompromising stance, one wonders why the time-consuming report was undertaken in the first place.

In April 1969, more than two years after its initial request, Taumarunui County Council was informed of the Minister’s decision. Those lands already farmed, or with farming or subdivision potential, would not be exempted and Crown-occupied lands with regard to the Tongariro Power Scheme were already non-

⁷⁷ Secretary Maori Affairs to Wanganui district officer, 3 November 1967, in above; DB:1277

⁷⁸ Ibid

⁷⁹ Field supervisor to Wanganui district officer, 27 February 1968, in above; DB:1280-83

⁸⁰ Field supervisor to Wanganui district officer, 12 July 1968, in above; DB:1285-87

⁸¹ ACP MacRae to McEwen, 28 August 1968, in above; DB:1291-92

⁸² Secretary Maori Affairs to Minister Maori Affairs, 3 April 1969, in above; DB:1293-94

⁸³ Handwriting on above

rateable. With regard to the lands that were incapable of development, the council was informed of the Minister's intention to have these areas purchased by the Crown. In the meantime, these lands would remain rateable property.⁸⁴ The Secretary for Maori Affairs had sounded out the Lands Department about the purchase of these lands the week before and had received a positive response: 'the Crown would most certainly be interested in purchasing them. They had tried to buy them from the Maoris but had not got very far.'⁸⁵ On the same day the Minister's decision was reported to the county council, the option of purchasing the 16 blocks of undeveloped land was formally put to the Director General of Lands.

It was almost another year before the Lands and Survey Department responded. Fourteen of the blocks fell within the Wellington Land District, and the commissioner of Crown lands had not proceeded further once he became aware that the owners wanted to retain title and had 'no intention of selling to the Crown unless the areas are required for addition to the Pihanga Scenic Reserve'.⁸⁶ For the two blocks that fell within the purview of the commissioner of Crown lands, Hamilton, it was reported that one was suitable only for reservation and the other might be of interest to the Forestry Department for planting. On 24 March 1970 the Director General responded further about having the lands in the Wellington land district included in the Pihanga scenic reserve:

The Commissioner had found, through approaches to some of the owners, that there is no intention to relinquish title to these lands and in fact the owners were upset at the thought that the Crown might take them over. In view of this attitude it is not intended to take the matter any further.⁸⁷

By this time Duncan McIntyre was Minister of Maori Affairs, but it appears the issue was never taken up with him. The Director General's letter bears the annotation from the Secretary for Maori Affairs: 'No action necessary. If the owners do not want to sell, then they must pay rates. There is nothing more we can do.'⁸⁸ The matter was left there.

The uneconomic Maori lands identified by Maori Affairs staff in Taumarunui County were not purchased by the Crown. It is also clear that despite the Government's refusal to declare these lands non-rateable, the council's own remission policy from 1966-1981 meant that the rates on this class of land did not accrue in this period. The Crown's actions in this episode however would seem to raise issues of acting in good faith. At the very least it reveals a government bureaucracy – the Department of Maori Affairs – out

⁸⁴ Secretary Maori and Island Affairs to clerk, Taumarunui County Council, 29 April 1969, in above; DB:1296

⁸⁵ File note, 22 April 1969, in above; DB:1295

⁸⁶ Director General Lands & Survey to secretary Maori & Island Affairs, 6 February 1970, in above; DB:1303

⁸⁷ Director General Lands & Survey to secretary Maori & Island Affairs, 24 March 1970, in above; DB:1304

⁸⁸ Handwriting on above

of touch with the interests of Maori people. The prevailing mindset at this time was of course the productive utilisation of Maori land, but this does not account for the Minister's refusal to contemplate exemption or, put another way, his determination that Maori land unsuited to development be removed from Maori ownership. There is no evidence that Taumarunui County Council ever contemplated asking for government reimbursement for these unproductive lands, and by the same token, Crown purchase would not have increased the rating base of the county council, for Crown land was not liable. There are no tenable economic grounds for the Minister's refusal: it smacks instead of a deep-seated philosophical resistance to 'special treatment' for Maori lands.

The Taumarunui case was not an isolated experience. Waipau County Council made similar recommendations to have four blocks of Maori land be declared exempt from rating in 1965, but like the later Taumarunui example, the Minister preferred that these unoccupied, unproductive lands of little economic value be purchased by the Crown rather than remain exempted Maori land. As Towers relates, under Hanan's tenure, the factors that were essential to show that land should be exempted from rates had become the grounds for the lands to be alienated.⁸⁹ In the case of one of these East Coast blocks, the turn of events became farcical, with the Crown's offer to purchase proof that the land was of economic value, and therefore should not be exempt.

The Minister's stance is difficult to reconcile, particularly in light of the fact that rating legislation was overhauled in 1967, and the provisions regarding the Governor-General's power to declare Maori land exempt were carried over into the Rating Act 1967. The Minister's wholesale refusal to use the provision makes a mockery of the protection it promised, as all of the cases referred to above came with the endorsement of both the relevant local body and the Maori Land Court.

7.3.3 *Local Government Rates Inquiry, 2007*

The précis of key rating issues identified by the three-person panel charged by the government to look into the impact of rating on Maori freehold land have been reproduced in full below:

13.1 Serious problems arise from the current rating of Māori land. Although raised often in the past, the problems have never been dealt with successfully. The Panel believes that a different approach is needed and that resolution of the problems should be an urgent priority of central and local government and for Māori.

⁸⁹ Towers, 'Rating on the East Coast', pp 315-6

13.2 A substantial amount of Māori land is productively used, well managed, and is providing landowners with income and the ability to pay rates, which are paid on most Māori land. However, a lot of Māori land is unusable, landlocked, bush-covered, isolated, and not in production. Even when the land is potentially productive, constraints on borrowing, ownership issues, the burden of unpaid rates, and other matters create barriers to the use and development of the land.

13.3 Māori land is different from general land – historically, legally, and culturally. Māori regard themselves as custodians or kaitiaki of the land across generations and consider that the land is part of them. Land is not viewed primarily as a commodity. This cultural context is explicitly recognised in the preamble to Te Ture Whenua Maori Act 1993, which provides the legal framework for the administration of most Māori land.

13.4 Government leadership is essential in addressing the complex and entrenched problems with the rating of Māori land. The Panel concludes that a national programme of work with a clear timetable and implementation strategy is needed.

13.5 A key issue raised at hui was that rates on Māori land should be considered within the context of the Treaty of Waitangi. Participants questioned whether the Treaty, in entitling Māori to ‘full and exclusive undisturbed possession of their lands’, ever ceded the right to the Crown to levy rates. The relationship between the Treaty of Waitangi and rating law should be addressed by the Government and form part of the work programme on rating and Māori land proposed by the Panel.

13.6 The current system of valuing Māori land for rating purposes is inappropriate and wrong. After a court challenge in 1997, the Court of Appeal held that Te Ture Whenua Maori Act constrained the alienation of Māori freehold land, and thus the willing buyer-willing seller premise at the heart of valuation of land legislation was inappropriate. As a result of this decision, the Valuer-General established guidelines for rating valuations that discount the valuation of Māori land on a case-by-case basis.

13.7 The Panel considers that these guidelines do not recognise the full range of issues involved with the valuation of Māori land. More fundamentally, the Panel believes that the valuation of Māori land for rating purposes should have its own distinct system. This system

should reflect the historical, cultural, legal, and physical characteristics of Māori land and the inappropriateness of a valuation for rating purposes premised on 'market value'.

13.8 Māori freehold land is still over-represented in the rates arrears and accumulated penalties of some councils. This remains a source of contention and affects relationships between these councils and landowners. This is partly a reflection of inappropriate valuation of Māori land, but it also reflects a need to improve rates remission policies. There is a need to build capacity within councils to work directly with landowners to resolve rating issues. An important element of the joint work would be to remove the disincentive rates arrears present to the development of potentially productive land. This would help Māori develop their land and enable the payment of future rates to be sustained.

13.9 Some submitters suggested that the Government should pick up the cost of unpaid Māori rates. The Panel does not support this proposal. Part of the problem lies in the way Māori land is valued; part is in the application of remission and postponement policies; and part of the problem is that some local authorities have not adequately engaged with Māori landowners. In any event there is no justification for the Government being made responsible for the payment of rate arrears. There is, however, good reason for the Government being a party to the solution of the problem.

13.10 The Local Government Act 2002 requires local authorities to adopt a policy on the remission of rates on Māori freehold land. It also provides an extensive schedule of matters that must be considered in the development of this policy. Central government also needs to participate in the development of a consistent and coordinated approach to rates remission and postponement policies on Māori land.

13.11 An issue requiring further consideration is the Māori land that was made general land through the Maori Affairs Amendment Act 1967. Under that Act any block of Māori land with less than four owners had its status changed from Māori land to general land title. In most cases the owners were never notified of the status change. The Panel considers that Māori freehold land that was made general land in the 1967 amendment to the Maori Affairs Act and is still in Māori ownership should be permitted to revert to Māori freehold land enjoying the same rates remissions policies as for existing Māori freehold land. Further,

there should be no restriction on changing the status of this land back into Maori freehold land.

13.12 The impact of rates on Māori land is intimately entwined with a range of other issues that affect the use and development of Māori land. These include multiple ownership and legal constraints to decision making, improving governance structures, updating ownership records, and the surveying and registration of land titles.

13.13 Work on these and other issues is currently being pursued through a whole-of-government strategy for Māori land development led by Te Puni Kōkiri. The issue of rating of Māori land is integral to the use and development of Māori land, and the resolution of rating issues will make a positive contribution to the broader objectives of Maori land development.⁹⁰

The overall tenor of the report was that the serious fundamental and constitutional issues surrounding the rating of Maori land needed to be addressed, including the relationship between rating law and the Treaty of Waitangi. Although it was acknowledged that local government had a role to play in better engaging with Maori landowners, the clear message from the report recommendations was that central government leadership was essential to address the complex issues, including the development of a consistent and coordinated approach to rates remission policies for Maori land. In Wai 1495/1616 the Crown's failure to address the constitutional and valuation issues identified in the 2007 report is the subject of claim, together, as noted above, with its failure to develop a coordinated and consistent approach to rates remission policies for the claimants' land.

It is noteworthy that the 2007 Rates Inquiry Panel did not contemplate the removal of unproductive Maori freehold land from rates liability. It looked instead to changing the model of valuation which would take into account the historical, cultural, legal and physical factors relating to Maori land. The panel's conclusion that there is no justification for Government responsibility for the payment of rate arrears is also interesting given its prior recommendation that the relationship between the Treaty of Waitangi and rating law be addressed, and the fact that the first three factors identified by the panel for the non-payment of rates are arguably directly attributable to past Crown policies and practice:

⁹⁰ *Funding Local Government*, Summary of key points, chapter 13

- the land has poor soils, is isolated, landlocked, or has other characteristics that make it inherently unproductive and it therefore generates no income to pay rates.
- the land is potentially productive but there are barriers to realising its productive potential, including ownership issues and constraints on borrowing, with the result that it generates no income to pay rates.
- the land is in multiple ownership and has no governance structure; it is unclear who is liable for rates, and individual owners have no means and financial incentive to contribute towards rates.⁹¹

According to the report, rates arrears form between 0.5 and 7 per cent of the total annual rates bill for local authorities, and it listed the areas most affected by the issue of non-payment as Northland, the central North Island, the eastern Bay of Plenty, and the East Coast. Te Rohe Potae would no doubt fall into this category. If government is not to take financial responsibility for the remission of rates on Maori land, the cost of doing so will have to be borne locally, not just in terms of finance, but also in terms of community relationships.

It is clear that the historic problems attendant with the rating of Maori land are still with us. The Treaty renaissance has meant that the worst excesses of the 1950s and 1960s have been curbed. Maori freehold land can no longer be sold for rates and it is widely acknowledged that under Te Ture Whenua Maori Act 1993 with its emphasis on the retention of Maori freehold land in Maori ownership, enforcement options have been practically removed. Yet the fundamental issue of rating liability over Maori land, in terms of the Treaty of Waitangi has not been addressed. Curiously, to all intents and purposes it seems we are returned back in time, where Maori freehold land is deemed to be legally liable for rates, but local bodies given no practical means to enforce the same. The difference being, of course, that a century on Maori possess but a remnant of their former estate.

⁹¹ Ibid, 13.63

Chapter 8

Representation in Te Rohe Potae

The democratic nature of local government is a relatively recent phenomenon, in rural New Zealand at least. As set out in Chapter 1, the ratepayer qualification that prevailed for most of the twentieth century was accompanied by the twin features of weighted voting (bestowing more votes to wealthy ratepayers) and plural voting (bestowing votes for each riding in which property was held). A single residential vote was only introduced to the county franchise in 1944, but the retention of ratepayer privilege meant that electoral dynamics were generally unchanged. Unlike women's suffrage, New Zealand was not particularly proud of these arrangements (they were relegated to the footnoted fine print in the 1945 Select Committee's Report on Local Government for example), but they were maintained nonetheless. Weighted voting persisted until 1974, and plural voting until 1986. The 1986 local body elections were in fact the first to be held on the same democratic basis as the nation's general election.

The ways in which the local government electoral system impacted on Maori participation have also been set out generally in Chapter 1 (see 1.4). Initially prevented from participation by virtue of no or partial liability, within Te Rohe Potae the principal factor behind ongoing non-participation became widespread rates default. The following chapter briefly considers other aspects which contributed to a lack of tangata whenua representation in local affairs.

8.1 Representation in Te Rohe Potae

8.1.1 *Starting out*

Local body representation was based on the riding unit, and the configuration of ridings reflected Pakeha settlement, both in terms of the number of ratepayers and rateable value. Riding boundaries could be changed by the council at will. Such arrangements had little to do with democracy: in Kawhia County six ridings were created in 1905 for a seven-member council. Matakowhai riding, which included ratepayers at Waitetuna, Te Mata and Oparau, having twice the rateable value, was given a second representative.¹

¹ 'The Kawhia County', *Kawhia Settler*, 7 April 1905; DB:2681

Table 9: Kawhia County Ridings, 1905

Ridings	No. ratepayers	Rateable value (£)
Kawhia	143	14,838
Matakowhai (2)	74	48,882
Te Kauri	47	22,000
Awaroa	42	26,000
Waiharakeke	64	28,500
Taharoa	60	25,600

Inaugural county elections, valid for one year, were based on the electoral roll rather than the valuation roll, providing an anomaly of initial Maori participation. Within Kawhia County for example, Taiu Wetere, a man of influence locally, stood for both the inaugural elections of the Kawhia County and the Kawhia Town Board, and an interpreter was provided at the Kawhia riding polling booth. Wetere lost by only three votes, an outcome that may have been different had not a fourth candidate, WW McCardle, withdrawn at the last moment to ensure the Pakeha vote was not split.²

Settler interest in the inaugural elections appears to have been mixed. Only 21 votes were recorded for Taharoa, which newly arrived William Shaw won comfortably, but Matakowhai was strongly contested with 113 votes from the supposed 74 ratepayers.³ The lack of local interest in local government seems to have been a corollary of its fortunes generally. In straightened times, making the pennies go round was a thankless task, as the many changes to members of Raglan's earliest road boards and county council attest. Throughout its short life as an operative entity, Awakino County struggled to find men willing to take on public office. In the inaugural election of 1913 in only one of the three ridings was there any need to hold an election at all, four of the six nominees achieving their position without contest.⁴ This trend continued for the unhappy county: in the 1920 election there were only four nominees for the six ridings, who were all duly appointed without election, the two vacancies subsequently similarly filled by a single riding nominee in each case.⁵

Valuation rolls of 1913 disclose that initially Maori occupiers within Kawhia County were listed by name, either as occupier/owners in their own right, or as 'nominated occupier' for multiple owners. Very few of the Maori assessments at this time appear under the appellation 'Native'.⁶ As a result of the

² Ibid

³ 'The Kawhia County', *Kawhia Settler*, July 1905; DB:2685

⁴ Awakino County Council Minute Book 1913-1917, p 1, Waitomo DC; DB:2495

⁵ Awakino County Council Minute Book 1920-1922, pp 2-3, Waitomo DC; not in DB

⁶ Kawhia County valuation roll, 1913, 233312, Otorohanga DC; Digital DB: Local Body Records/ Otorohanga DC

blanket default of rates from Maori lands however, elections seem to have been exclusively Pakeha affairs. The poll stations were at public places –wharf sheds or schools where these existed, or at settlers’ homes where they did not.⁷ The number of participating ratepayers was relatively small: in 1910 HH Babbage was sent 35 ballot papers for the Awaroa Riding, and H Shaw and J Harper 40 and 45 ballot papers respectively for the Waiharakeke and Taharoa Ridings.⁸ In 1921 an election for a replacement member for the Marokopa riding on Awakino County Council attracted only 36 votes.⁹

8.1.2 *Economic interests v. democracy*

As suggested above, riding configurations reflected economic self-interest rather than any notions of democratic equity, even as between contributing ratepayers. By 1923 the seven ridings of Kawhia County, with one member each, were Kawhia, Oparau, Te Kauri, Awaroa, Waiharakeke, Taharoa and Marakopa. As a result of the 1921/22 restructuring of local government, Kawhia County lost the northern area of Matakowhai Riding to Raglan County, and gained a new southern riding of Marokopa from the now extinct Awakino County. Using population data of 1926 it is clear that democracy was not a primary consideration in the configuration.¹⁰

Riding	Pakeha	Maori
Kawhia	253	307
Oparau	140	59
Te Kauri	72	90
Awaroa	37	120
Waiharakeke	88	52
Marokopa	124	49
Taharoa	217	247
Total	931	924

Again, the blanket rates default from Maori occupied land meant that Maori were not a factor in riding configuration arrangements at this time. Maori population statistics have been included in the above table to indicate loosely into which ridings the Maori communities fell. Unlike the Crown settlements of individual settler families in the hinterland, these close-living communities were clustered around the

⁷ See for example correspondence to returning officers in Kawhia County Council letterbook 1910, pp 402-405, 233304, Otorohanga DC; DB: 1873-76

⁸ Ibid

⁹ Awakino County Council Minute Book 1920-1922, p 42, Waitomo DC; not in DB

¹⁰ Table 19: ‘Population of Counties, Ridings, Road and Town Districts’, vols 1-4, p 27, *NZ Population Census 1926*

harbours of Kawhia and Aotea. As the following chapter demonstrates, unless they happened to be en route to a Pakeha farmer, local body provision of service in the way of roads also passed them by.

Within Waitomo County, the arrangement with respect to representation by 1935/36 is shown in the following table:¹¹

Riding	Unimproved value (£)	Capital value (£)	% Maori capital value	No. Pakeha ratepayers	No. Maori titles
Aria	9,254	94,296	7.4	207	65
Awakino	9,850	84,177	8.8	91	38
Hangatiki	38,102	103,095	27.7	190	146
Mahoenui	16,515	73,053	17	49	43
Mairoa	25,337	78,447	24.3	125	143
Paemako 1	30,592	130,167	17.6	223	80
Paemako 2	5,579	30,894	13.5	54	6
Tangitu	14,014	79,201	13.3	188	75
Te Kuiti	40,209	96,492	31.3	138	94
Total	189,452	769,822		1265	690

Again, the rationale for this division – such as the seeming inequity of Paemako 2 receiving separate representation on council – has not been established for this report. The table shows that Maori held significant rateable value in the ridings of Hangatiki, Mairoa and Te Kuiti, but widespread rates default would have rendered this potential political influence void.

8.1.3 The 1944 residential franchise

In April 1944 legislation was passed providing for a single residential vote in county elections. The county clerk was directed to add to the county electoral roll the names of entitled residents who had filled out a claim for enrolment, and any other person ‘who to the clerk’s knowledge’ was entitled to the residential vote.¹² The electors’ roll for Kawhia County, dated 19 April 1944, does contain a number of Maori individuals.¹³ Within the now combined Awaroa and Te Kauri riding, members of the Ormsby, Edwards, Takiari, and Thom families were listed, among others. Similarly, there are Maori individuals listed in the Kawhia riding, over and above those rate-paying dairy farmers on development schemes. It is clear however, that the number of individuals listed on the 1944 roll with recognisably Maori names is considerably less than the number of Maori adults who would have been entitled to the residential vote,

¹¹ Waitomo County Council Rates Book 1935/36, Waitomo DC; not in DB

¹² Section 3(2), Local Elections and Polls Amendment Act 1944

¹³ County of Kawhia Electors’ Roll, 19 April 1944, 233033; DB:1663-1677

particularly within the riding of Taharoa, where there was a very strong Maori presence, and to a lesser extent Waiharakeke. This 1944 electoral roll demonstrates that the discrepancies between the ridings, in terms of electors, had become more pronounced than ever:¹⁴

Riding	No. electors
Kawhia	261
Oparau	86
Awaroa-Te Kauri	154
Waiharakeke	77
Taharoa	105
Marokopa	44
Total	727

Kawhia County Council in fact objected to the new residential qualification, first to the Minister of Maori Affairs in October 1944 and then to the Parliamentary Select Committee on Local Government reform in March 1945.

The great weakness of this Act is the failure to take into account the varying conditions and circumstances peculiar to different Counties. In a purely rural community, it is difficult to see why the vote was given to ‘residential’ who, in this case, comprise mainly the village policeman and sundry schoolteachers and other civil servants. None of these take the slightest interest in County affairs and know nothing whatever about them. The Maoris are, however, the major and serious problem. They comprise a little more than half the total population of 2000 people in Kawhia County. By their nature they live closely together at different points of the County, and by reason of this, they are placed in a position to win – for certain – four out of the seven seats on the Council, and are also able to control the result in the remaining three.¹⁵

According to the chairman, Maori would be in a position to ‘do many things inimical to the best interests of the County as a whole, and particularly to its European ratepayers’.¹⁶ Imagining the worst, it was postulated that a Maori-controlled council would levy the maximum rate ‘in their own interests’; take all the council employment; and – heaven forbid – provide road access to service their land ‘to such an

¹⁴ In this arrangement Kawhia Riding had two representative members on council.

¹⁵ Kawhia County Council chairman, ‘Evidence Submitted to Parliamentary Select Committee...’, 3 March 1945, 233033 Maori land, Otorohanga DC; DB:1718-20

¹⁶ Kawhia County Council chairman to Minister Maori Affairs, 25 October 1944, *ibid*, DB:1712-13

extent, as to ruin the European ratepayers – for it is these latter who would pay.’¹⁷ The select committee was reminded that ‘European ratepayers made this County, that little or no financial assistance has accrued from Native rates...’, and it was suggested that Maori representation should be proportionate to the amount of rates contribution, ‘or some other equitable form of representation.’¹⁸ Both the Minister and the committee were made privy to the chairman’s opinion that ‘Maoris are totally unfitted for and actually incapable of administering the affairs of a County.’¹⁹

As it happens, the council’s fear of a Maori takeover did not come to pass. Incumbent Pakeha councillors continued to control the county council until its demise in 1956, and then vied with each other to represent the new ridings following amalgamation with Waitomo and Otorohanga County Councils. One reason for the continued lack of Maori representation even after the introduction of the residential franchise possibly lies in the failure to enrol all Maori adults qualified to vote. In a 1946/47 rates book, 113 Maori ratepayers were listed by name, 38 of these for lands within the Waiharakeke Riding.²⁰ The accuracy of this list, for the reasons set out in this report, is open to question. A further 217 assessments were listed under the generic ‘Maoris’. Within the Awaroa-Te Kauri riding as late as 1952, occupiers had only been pencilled in for 27 of the 48 assessments listed in the valuation roll under ‘Maoris’. Is it fair to assume that if the county did not know the identity of its Maori ratepayer constituency, it was similarly unmindful of the population as a whole? Particularly if, as shown above, it was not in its best interests to find out. Of the 31 adults listed by the Maori Affairs welfare officer as resident at Rakaunui and Hauturu in 1955, only 10 of them appear on the county’s electoral roll of 1953.²¹ Similarly, a significant number of individuals appearing in court to defend their lands in the Awaroa block over 1953-55 do not feature in the Awaroa-Te Kauri riding list. A common practice seems to have been the omission of a Maori landowner’s spouse, entitled by law to a residential vote.²² Even given the vagaries of multiple names for some individuals, it is difficult to avoid the conclusion that the county electoral roll with respect to the Maori constituency of Kawhia County was significantly incomplete. An R Moke is recorded as the single Maori councillor at the county’s winding-up dinner in April 1956.²³ In 1959, the first election following amalgamation, the Kawhia North riding was won by former county councillor Stanley Dillon running

¹⁷ Ibid

¹⁸ Kawhia County Council chairman, ‘Evidence Submitted to Parliamentary Select Committee...’, DB:1720

¹⁹ Ibid

²⁰ **Kawhia County Council rates book 1946/47**

²¹ ‘Housing survey – Rakaunui; Hauturu’, 9 March 1955, AAMK 869 W3074 1022B 30/3/43; DB:1198-99; County of Kawhia, Electors’ Roll 1953, Kawhia County Council 5/9, Waitomo DC; DB:2650-69

²² The list includes for example the name of Nora Pikia, tupuna of the author’s children, but not that of Norman Pikia, her husband.

²³ ‘Kawhia County Council Celebrates Wind-Up at Successful Reunion’, *Te Awamutu Courier*, 4 April 1956, in IA 1 3305 197/781; DB:88

against the former county chairman Charles Barrett. In 1977 Rohe Takiari was elected for the Kawhia North riding of Otorohanga County Council. Following the restructuring of local government in 1989, Takiari served two terms on the Otorohanga District Council, from 1990-1996.²⁴

8.2 The impact of non-representation

In his general history of local government in New Zealand, Graham Bush makes the point that as late as the 1970s local government rulers were anything but representative of the communities from which they were drawn, describing the archetypal councillor as middle-aged middle-class male.²⁵ To this he should have added 'Pakeha'. The hegemony of the Pakeha farming fraternity also accounts for the number of councillors and chairmen who were returned to office uncontested term after term: Walter Lee served on the Waitomo County Council for 39 years, as chairman for 24 of them. On his appointment in 1957 to the Local Government Commission, his reign was followed by that of JM Sommerville, elected chairman for the next 13 consecutive terms.²⁶ Albert Foreman served on Clifton County Council for 25 years, and was chairman for 16 of these. Campbell Johnstone died in office, chairman of the Raglan County Council for 20 years from 1910.²⁷ Shaw and Babbage were long-serving members and chairmen on Kawhia County Council, and JL Wallis councillor and chairman on Otorohanga County Council for 35 years. Waipa County Council's chairperson unwittingly hit the nail on the head in 1978 in voicing his ambition for the creation of a council, 'where any of the other councillors could be elected chairman on my retirement'.²⁸

A number of these men also held national roles as members of the Counties Association, and on related regional and special purpose bodies. Another important feature is the number of local politicians who went on to a career in Parliament, such as Walter Broadfoot, mayor of Te Kuiti from 1927-1935 and long-standing local MP from 1929. Known to his constituents as 'Broady', Broadfoot was a Cabinet member of the National Party from 1949-1954, the period in which the compulsory alienation of unproductive Maori land was implemented in the King Country, something he had spent a lifetime campaigning for.²⁹ F Langstone and WW McCardle were also King Country MPs who had their beginnings in local government.

The 'closed door' to council chambers meant that on a day-to-day basis, decisions were taken without regard to Maori viewpoints. An obvious example is the issue of liquor licensing. Dick Craig, former

²⁴ Peg Cummins (compiler), *A History of Kawhia & its District* (Kawhia Museum, 2004), p 186

²⁵ Bush, p 42

²⁶ P McCaughan, 'Waitomo Council Chairmen and Mayors', *Footprints of History*, no 29, p 5

²⁷ Vennell, p 317

²⁸ HA Sherwin, quoted in Barber, *The View from Pirongia*, p 157

²⁹ Broadfoot held the portfolios of Postmaster general and Minister of Telegraphs, Minister in charge of the Valuation Department, and Minister in charge of Government Printing and Stationery in this period.

editor of the *Waitomo News*, recounts that the agitation for liquor licensing was led by the Te Kuiti Borough Council with the support of ‘every territorial local body in the King Country’.³⁰ One such ‘representative meeting of local bodies’ held in the Taumarunui Borough Council chambers in June 1923 included the mayor of that town; members of the local chamber of commerce; councillors from the counties of Taumarunui, Kaitieke, and Waimarino; and from the boroughs of Te Kuiti and Raetihi.³¹ These Pakeha were mortified by the King Country’s status as a ‘native reservation’ in terms of liquor licensing, past pacts notwithstanding, and one outcome of the meeting was a resolution to send delegates to lobby Parliament to end the district’s drought.³² Craig recounts that in Te Kuiti there was in fact a ‘council’ of illegal clubs, ‘chaired’ by the local police sergeant. Few Maori were invited to become members.³³ A members’ book from the ‘Te Kuiti Club Inc’ dating from 1911 reveals a telling insight into the network of relationships in action, with the membership of Native Land Court Judges Holland (in October 1911) and Judge MacCormick (in July 1916) proposed by none other than Walter Broadfoot.³⁴

As touched on in Chapter 2, local government jurisdiction was felt in terms of public works takings and resource management, such as gravel extraction, land drainage and river straightening. In these situations, local government invariably posited itself as the champion of the ‘public interest’, which inevitably took precedence over those of tangata whenua. Historian Alan Ward argues that local body actions such as river or harbour works fulfilled a ‘genuine public need’, with Maori sharing in the benefits: ‘It is difficult to see how the Maori minority could have been allowed to stand in the way without incurring an opprobrium very damaging to their chances of achieving genuine equality in the community.’³⁵ Ward criticises instead the abrupt manner in which local body jurisdiction was enforced over such matters as dog tax, and the lack of regard for the impact on traditional food resources, for example, in carrying out such works. However this arguably fails to acknowledge the vested interests that rural local government represented, and conversely perpetuates the relegation of Maori values and interests as ‘other’, or outside the ‘public’. It also misrepresents the reality, certainly within Te Rohe Potae, that in rural areas Maori were *not* the minority in this period of flux: that title rightly belonged to the busy newcomers, whose activities were sanctioned and subsidised by Parliament.

At times, the veneer of ‘public interest’ wore thin: in 1909 Pakeha residents at Oparau, disgruntled by the hike in rent of private Maori land on which they played tennis, appealed to their local MP to have the area

³⁰ Dick Craig, *King Country NZ’s Last Frontier*, (Te Awamutu, 1990), p 184

³¹ *King Country Chronicle*, 23 June 1923; DB:2803

³² *ibid*

³³ Craig, p 184

³⁴ Members book, Te Kuiti Club Inc; Digital DB

³⁵ Alan Ward, *A Show of Justice*, (Auckland University Press, 1995 reprint), p 284

reserved for recreation.³⁶ Having been advised by Native Minister Carroll that any representations should come through the local body, the same residents sought, and received, the Kawhia County Council's support for the reservation of the land. On this occasion, the council does not appear to have proceeded with taking the land under the Public Works Act, but the point is that local government was a vehicle for Pakeha aspirations, often at the expense of Maori proprietary rights.

Ultimately, local government represents a 'public' interest with a seemingly insatiable appetite, matched only by its lack of graciousness. Having done its level best in the 1950s to transfer remaining areas out of Maori hands, in 1964 Raglan County Council complained to the Minister of Maori Affairs regarding its unsuccessful bid to obtain part of Whanga 1B2B2 for a public reserve to provide access to the increasingly popular surfing spot at Manu Bay. Turned down unanimously on its first attempt, the subsequent asking price was considered by the council to be 'completely unrealistic'. Appealing to the Minister to intervene, the council expressed 'its concern that an area of land such as this should be denied to the people of New Zealand, both Maori and Pakeha because Council is not in a position to pay such an exorbitant figure for this section of land.'³⁷

In more modern times, continued local body disregard for Maori interests can be seen in the lack of inclusion of tangata whenua in activities and planning with regard to significant landmarks and resources. This is arguably the result of ignorance rather than ill-will, but it is nonetheless symptomatic of the lack of representation from, and lack of knowledge of, the Maori constituency within any local body district. Thus, early discussion by the Waipa County Council in 1960 about the establishment of a domain at Lake Ngaroto involved the Te Awamutu Boating Club, the Te Awamutu Chamber of Commerce, the Auckland Acclimatisation Society, the Ngaroto Drainage Board and the adjoining property owners.³⁸ It does not seem to have occurred to council that tangata whenua had a stake, notwithstanding the traditional significance of this lake to local hapu. Similarly in 1977, Waipa District Council's construction of a look-out tower on Kakepuku was celebrated by inviting the district commissioner of Crown lands, the Waikato Regional Reserves Committee and the Waikato Tramping Club to share in the day walk. Local Maori had not been consulted about the project and no such invitation was extended to tangata whenua, despite the council's awareness that the former scenic reserve had recently been changed to an historic reserve on

³⁶ In MA 1 1909/371; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1909-371. The Rarakau block in question belonged to the Edwards family. It does not feature in Alexander's database.

³⁷ Raglan County Council clerk to Minister Maori Affairs, 25 August 1964, MA 1 65 5/3/8; DB:121

³⁸ In 9/3/6, Waipa DC; not in DB

account of ‘the number of Pa sites and that it is traditionally identified with pre-European Maori legend and mythology.’³⁹

In its *Tauranga Moana 1886-2006 Report* the Waitangi Tribunal found that local government voting systems in place historically did not ensure that Maori were represented in a manner that best met their needs and preferences, and that the failure of the Crown actively to facilitate Maori representation at a local level constitutes a breach of the duty to protect Maori rights and interests.⁴⁰ The tribunal concluded that the Crown is under an obligation to facilitate Maori aspirations for a measure of control over their own affairs and to participate in local government, not just on the basis of Treaty principles and the text of article 3, but from the more generally espoused principle of ‘no taxation without representation’.

County councils were however primarily roading authorities: distributing the rates receipts among the ridings, securing loans for capital works, and prioritising works receiving government subsidies through the Public Works Department. Their activities were exclusively directed at meeting the needs of ratepayers, with grave economic and social consequences for Maori communities. The balance of the report explores the systematic marginalisation of Maori interests as a result of having no voice in local government decision-making.

³⁹ See correspondence in 9/3/8 Reserves and domains, Kakepuku mountain, Waipa DC; DB:2139-40, and commissioner Crown lands to county clerk, 30 November 1976, in same; DB:2137

⁴⁰ *Tauranga Moana 1886-2006* online at www.waitangi-tribunal.govt.nz, p 385

Chapter 9

The Provision of Service

Rural local government was in the business of providing local roads, and priority was given to contributing ratepayers. This was the *raison d'être* for the earliest road boards and remained the case under county council rule. It is also the case that the system was applied early on to areas of Pakeha settlement, expanding only as and when Pakeha communities took root, a point perhaps best brought home by the exemption of Maori occupied land from rating liability until the twentieth century. Even after liability was achieved, the non-payment of rates by Maori meant that their interests were largely ignored by the rating authorities.

Having taken on the colonisation of the King Country as a State-only enterprise, the Crown had a direct role and responsibility in providing the requisite communication infrastructure. As outlined in Chapter 2, the question of how and when the responsibility for these district roads was 'handed over' to the newly established settler local authorities subsequently became a tussle between the local and central authorities. Once local government was firmly in place, the Crown continued to support the development of local infrastructure with subsidies and free grants, on the basis of priority established by the local bodies themselves.

This chapter examines how the local government system of service provision operated within Te Rohe Potae, with particular regard to the extent of Crown support extended to Pakeha ratepayers as compared to that meted out to tangata whenua.

9.1 Providing service

9.1.1 Sanctioning debt

The way in which local government responded to the challenge of providing access in the new frontier has been set out in Chapter 2. Within Waitomo County, after an initial period of eking out its meagre income on patching up existing dray roads, with each riding member deciding how 'their' thirds were spent, in 1907 settlers at Mairoa were the first to sanction a loan of £7000 to improve and metal their road out. The council's subsequent policy of borrowing was encouraged by rapidly rising land values in the district from 1910. Together with the influx of newcomers arriving by train, the total receipts of the

county trebled in just four years, despite the council having halved the general rate. This newfound prosperity was matched by a rising debt: £34,860 for the 1913/14 year, mounting to £110,000 by 1918.

The loans were generally matched pound for pound by government grants. Having initially balked at accepting responsibility for the main roads in the district, ratepayers eventually bowed to the inevitability of self-reliance. In 1915 for example, at the behest of ratepayers, the Waitomo, Awakino and Kawhia counties made a united approach to the Minister of Public Works for a pound for pound subsidy to metal the whole route from Marokopa and the Kawhia harbour to the main trunk railway at Hangatiki. The project involved five roads – 31 miles – for an estimated cost of £23,400, each county's share carefully calculated, to be raised by way of a special loan over the affected district.¹ In October 1915 the Minister agreed to provide half of the estimated cost once the local bodies had expended their share.²

By 1914, 12 special loans had been taken out by Waitomo County Council to finance works in defined special rating districts. The general rate was purposefully kept low, to enable affected ratepayers to meet the special rates which became the security for the loan. This special rates system called for careful accounting and reflected the principle that only those ratepayers benefiting from the service should bear the cost. The Waitomo County Council rates book for 1950/51 for example, records different special rates charged to each riding ranging from five in Awakino, to 16 different 'specials' in the ridings of Aria, Paemako and Te Kuiti. Within each riding, ratepayers were only levied rates for the riding 'specials' that affected their property.³

Maori land was included in the special rating districts of Waitomo County Council, rates from these lands accounting for around 17 per cent of the annual debt repayment in 1918. Within some special districts the percentage of Maori land was higher. As set out in Chapter 3, it was the non-payment of these special rates that spear-headed the renewed call for enforcing the collection of rates from Maori land after the First World War. The position was made worse by the slump of 1921, resulting in the abandonment of Maori leased land by Pakeha lessees. In such cases, while the loan may have been sanctioned by the lessee, in his absence, the debt fell back on the landowner. The significance of this issue is attested by Ngati Maniapoto's specific reference to it in the resolution they prepared during the consolidation negotiations with Ngata in 1928. One of their stipulations was that lessees should be liable for all rates on leased land, and that unpaid rates on abandoned land should not accrue on the land.

¹ Kawhia, Waitomo, Awakino County Council chairmen to Minister Public Works, 30 September 1915, BBAD 1054 2426A 15/16 part 1, ArchivesNZ Auck; DB:1535

² Minister Public Works to chairmen, Waitomo, Awakino, Kawhia County Councils, 15 October 1915, in above; DB:1533

³ Waitomo County Council rates book 1950/51, Waitomo DC; Digital DB: Local Body Records/Waitomo DC

Despite the slowing economy, and its misgivings over unpaid rates from Maori lands, the council continued to borrow throughout the 1920s. In June 1920 eight sums were borrowed from the State Advances Board, and subsidised pound for pound by the government: Te Kumi (£200), Kaeaea-Mokauiti (£650), Te Kumi-Hangatiki (£2000), Mangaiti (£1000), Hauturu (£1750), Tapuae (£1000), Paikaka (£1000), and a bridge loan of £1000.⁴ In 1923 the council was part of a combined effort to call government attention to the plight of the district, culminating in the three-day tour organised for MPs in May to show them firsthand the issues of ‘the roading of a roadless district’ (3.1.5). Records have been found for a number of loans taken throughout the remainder of the 1920 which give an insight into how the loans were sanctioned and who stood to benefit. In 1924 for example, 22 Pakeha ratepayers took on a debt of £3500 to improve and metal a portion of the Mangaiti Road, works serving 4607 acres of land. The special loan was sanctioned by way of special order of the council.⁵ Similarly, the council also sanctioned by special order the Maraetaua Road special loan of £1500, serving just three Pakeha ratepayers owning five barely improved properties, a total of 1198 acres.⁶ Although primarily intended to serve Pakeha landowners, another 1924 special loan proposal reveals a degree of ambiguity over the inclusion of Maori land in the special rating district. Unlike the other loans of that year, the proposal to borrow £1000 to improve and metal Mangateka Road, serving 29 properties was carried by a ratepayers’ poll 15 to 1.⁷ A list prepared for the purpose shows that 22 individuals were affected, all of them Pakeha, yet the accompanying map of this special district reveals that Maori land was included – amounting to one quarter of the area. These Maori landowners were not part of the poll sanctioning the loan, and nor does the land seem to have been taken into account in the calculations for repayments. Was it part of the special district?

The 1926 proposal to borrow £1100 to form the Mangatea Road on the other hand definitely included Maori land: nine of the 15 occupiers affected by the special district were Maori occupiers, although one of these was listed for a two-acre urupa which should have been exempt. The area under Maori occupation accounted for 926 of the 2474 acres which would be served by the road, around 37 per cent, yet the ratepayers’ poll endorsing the debt was prepared for, and sanctioned by, just four Pakeha ratepayers.⁸

Another loan arranged at the initiative of the Mokauiti Progressive Association makes it clear that land tenure was an integral factor in such decisions. The 37 assessments affected by the proposal to borrow

⁴ Waitomo County Council chairman to superintendent State Advances, 15 February, ‘Mokauiti Loan No.2’, 75/1/8, Waitomo DC; DB:2460

⁵ ‘Mangaiti Road’ 75/1/8 Old Loans, Waitomo DC; DB:2445-46

⁶ ‘Maraetaua Road’ in above; DB:2443-45

⁷ ‘Mangateka Road’, in above; DB:2438-42

⁸ ‘Mangatea Road Loan’, in above; DB:2450-54

£3000 to improve and metal the Mokauiti Road was divided up into ‘Crown Land in Occupation’ (4); ‘Native Land Occupied by Europeans’ (5); ‘Freehold’ (12); ‘Unoccupied Crown Land’ (5); and ‘Native Lands’ (11).⁹ The ratepayers’ consent form on this occasion bore the signatures of five Maori landowners. All of these 1920s loans were taken out on the basis of a pound for pound government subsidy.

In the normal course of things, the ability of local government to incur debt required the consent of affected ratepayers, those occupiers of land on which the special rates became the security for the debt. Once again however, the ill-fit of the local government system with Maori tenure meant that by and large this protectionary measure was not extended to Maori landowners. Native Minister Carroll pointed this out in Parliament in 1904 (see 1.8.2), and Ngata repeated the observation in 1932 with respect to Matakaoa County on the East Coast:

As far as the policy of the County expenditure was concerned, the people who had the least say as to how money should be spent and for what purpose were the Maoris of the district – whether they paid rates or not; they simply said it was the Whites’ business. When the counties got into difficulties they were roped in along with the rest.¹⁰

The evidence suggests that Waitomo County shared in this general trend of including Maori land in the local body liability without the sanction of affected landowners.

9.1.2 Competing interests/self-interest

Long-established Raglan County also borrowed capital to improve its road network. By the end of the First World War the county had 29 special rates districts, for capital works ranging from £100 to £9006, amounting to a total indebtedness of £80,269. It also enjoyed a perfect collection of these special rates, for no such special rates were levied on Maori land. At this time the county undertook a scheme to improve access for the dairy industry, borrowing £15,100 for six different works, and receiving government subsidies to the extent of £24,365. The extent to which this was supported by the Public Works Department was determined by the importance of proposed works to through traffic and the number of ratepayers served. Side roads and those with sparse settlement were not prioritised by the district engineer.¹¹

Raglan, too, kept separate accounts for its 11 ridings. The county council balance sheet of March 1919 reveals large discrepancies in their respective balances, with Onewhero, Te Akau, Waingaro and

⁹ ‘Mokauiti Road’, in above; DB:2457-58

¹⁰ AT Ngata, ‘Native Rates: Non-Collection of ...’, 13 April 1932, MA 1 402 20/1/1 part 2; Towers DB:615

¹¹ District engineer to engineer in chief Public Works, 19 November 1918, BBAD 1054 2412A 15/12 part 1; DB:1513

Whangape having more than three times the funds than those of Pukekawa, Karioi and Karamu.¹² A map showing the proposed road improvement scheme shows the bulk of the works located near Onewhero.¹³ The county also kept 18 separate Government grant accounts, and 34 separate interest accounts.

By 1927 the county's borrowing had outstripped the government's capacity to subsidise. As the Public Works Department engineer explained:

The whole trouble is that the cash allocation for the County is insufficient to go round. With the loan money at present in hand the county could absorb an allocation of £30,000. It is quite impossible to provide a subsidy for every item of Loan work and some work must be done without subsidy.¹⁴

There was only so much government money to go around the nation, and the consequence of such unrestrained borrowing was that ratepayers would be faced with paying the whole cost of the works themselves. 'If the settlers desire all their roads metalled in one season, they must be prepared to carry on without Government assistance. The question is not a local one but applies to the whole of New Zealand.'¹⁵

But even within Raglan County there were ridings that were not so well-endowed. Throughout the 1920s the Matakowhai riding to the south had no metalled roads whatsoever, and keeping the clay roads clear of slips was proving too much for the ratepayers there. In March 1928 they appealed to Lee Martin MP for help. The matter was referred to the Public Works Department. The local engineer confirmed that the amount of rates paid by the settlers in the district was only half that required to adequately maintain the roads, and that to ask for more from them would force them off their sections.¹⁶ He also revealed that the county had received considerable government assistance to build the roads in the first place.

Reporting back to Wellington, the district engineer acknowledged the hardship the farmers were under but recommended against the department setting a precedent for subsidising rates for general maintenance. He suggested instead that a free grant be provided for flood damage that might happen in the current year.¹⁷ On this occasion however the Public Works Minister ignored the advice and instead agreed that as 'the circumstances are certainly exceptional', a pound for pound subsidy would be provided

¹² Raglan County Council, balance sheet for year ending 31 March 1919, in above; DB:1527

¹³ Plan showing proposed works, in above; DB:1516-18

¹⁴ Hamilton assistant engineer to Auckland district engineer, Public Works, 4 February 1927, BAAS A263/68B 18/1 part 2, ArchivesNZ Auck; DB:1482-83

¹⁵ Ibid

¹⁶ Hamilton assistant engineer to Auckland district engineer, Public Works, 10 March 1928, in above; DB:1486

¹⁷ Auckland district engineer to Permanent Head, Public Works, 11 May 1928, in above, DB:1490

by the department to the county for maintaining the roads.¹⁸ What was never discussed in the correspondence were the exceptional circumstances: only half of the area served by the five roads in the Matakowhai Riding, together 38 miles long, was occupied by Pakeha ratepayers. The balance comprised non-ratepaying Crown land (31.8 per cent) and Maori land (18.4 per cent). Only one Maori property was listed under a named Maori individual in the department's lists, adding to the impression that Maori property, while liable, fell outside the ratepaying fraternity in terms of service provision.¹⁹

9.1.3 West Taupo County

West Taupo County, like Kawhia County, was described in the original Counties Act of 1876. Unlike its neighbour to the west, it remained inoperative for almost half a century. Under the restructuring of King Country local government entities in 1922 it was carved up between the counties of Waipa, Otorohanga, Taumarunui, and Taupo.

The notional county was home to a substantial Maori population, the periodic Maori census between 1886 and 1911 ranging between 957 and 1299 individuals.²⁰ Until the turn of the century the Pakeha presence in this district was nominal, but in the five years between 1901 and 1906 Pakeha numbers more than quadrupled, from 288 to 1397. By 1916 the county district had a population of 2351.²¹ In view of this, the delay in implementing local government is inexplicable. From 1916 four road boards operated at the northern end of county: Kakepuku, Parawera, Roto o rangi and Pukekura, comprised of dairy farmers who kept their district roads open 'as best they could'.²² In the reshuffle of 1922, these road districts became part of Waipa County.

In the southern part of the county, the needs of Crown tenants were met by the Government's resident engineer based at Taumarunui, who answered to the commissioner of Crown lands in Auckland. Each year, the district engineer submitted proposals for the expenditure of thirds to maintain the government roads to the Crown's tenanted lands. The extent of this settlement was small, the 1920 allocation amounting to £340.²³

9.1.4 Government dependence: Kawhia County

¹⁸ Minister Public Works to W Lee Martin, 25 May 1928, in above; DB:1493

¹⁹ Lists with above correspondence; DB:1494-98

²⁰ Walghan Partners, 'Selected Demographic Data for Rohe Potae, 1874-1926', p 23

²¹ Ibid

²² Barber, *The View from Pirongia*, p 95

²³ See for example "Scheme for the Expenditure of 'Thirds', 'Fourth's' and 'Halves', in AATE A986/257B 22/329, ArchivesNZ Auck; DB:1607-09

Kawhia County Council watched the prosperity following the main trunk line from the sidelines. Early settlers had maintained high hopes of Kawhia harbour becoming the main port of the region, and deputations had been made from an early date to have the seaport connected by rail. Of interest is the suggestion in 1907 by Arthur Ormsby that government reluctance to push ahead with the railway venture was due to the fact that the line would pass through a large area of Maori land, thereby enhancing its value, to which he responded 'if this railway is not built until these Natives sell, Kawhia residents will never see it.'²⁴ As set out in Chapter 2, as early as 1908 local commentators were bemoaning the fact that the expected boom times had passed the district by, a circumstance which was blamed on the retention by Maori of their land. In 1915 the council employed an engineer to report on the possibilities of developing the harbour as a deep-water port but these plans – like the branch line – were said to have been shelved during the war and never subsequently resurrected.²⁵

Unlike Waitomo County, Kawhia County Council continued to rely on the Government to improve the road infrastructure, rather than bear the costs of improvements through borrowing. By March 1922 it had a comparatively modest indebtedness of £31,268 for 21 different works, ranging from £60 to £5400.²⁶ Metalling loans had been taken out for a number of district roads in the county – Mangapohue and Marokopa Valley Roads; Pirongia West Road; Kawhia-Oparau Road; Kinohaku-Lemon Point, and Kawhia-Pirongia Road – but the main centres of Pakeha settlement around Kawhia harbour were not joined by road, the harbour itself remaining an important component of early communications within the county. The county council had been constituted almost immediately as the Kawhia Harbour Board in September 1906, and shortly after set about enlarging the Kawhia wharf which had been constructed by the government in 1901. The harbour board development of wharves at Kawhia and Te Waitere, and launchings and landing sheds at Oparau, Oparau Ferry, Awaroa, Waiharakeke, Mahoe, Kinohaku, Kiwi Bay and Te Maika was made possible by the harbour endowment of 6300 acres of Crown land created in 1907 at the initiative of local MP FW Lang. The lease monies from the endowment financed the loans for harbour works and ensured that harbour dues and wharfage fees were kept low. By 1915 in addition to the importance of local communications within the harbour, regular weekly steamer services to Onehunga and fortnightly services to Waitara were in place.²⁷

²⁴ 'The Native Land Question', *Otago Witness*, 9 October 1907, Papers past

²⁵ *Kawhia district and port: past, present & future: a brief summary of its position & potentialities, including Mr Leslie Reynolds' report on Kawhia Harbour* (Kawhia, Kawhia County Council, Town Board, and Chamber of Commerce, 1915)

²⁶ Kawhia County Council, balance sheet, year ending 31 March 1922, in BBAD 1054 2298B 15/5 part 1; DB:1539

²⁷ *Kawhia District and Port, Past, Present and Future*

The ongoing tug-of-war between the local body and government over responsibility for county roads reflected the fact that 40 per cent of the district was Crown land. Of the 206,112 acres in Kawhia County, 82,609 acres was owned by the Crown, just under half of which – 37,586 acres – was either unoccupied or reserved, from which no rates were forthcoming.²⁸ Although no rates books were located for Kawhia County, it is assumed that local body revenue from Crown lessees of the 45,023 acres in occupation was limited to Land Fund reimbursement of ‘thirds’ in lieu of general rates. The 1921/22 statement of accounts shows £777 13 10d received by the county council in land revenue.²⁹ Less than a third of the county area – 65,255 acres – was freehold land in Pakeha ownership, providing a general rate to support local body expenditure, and 1950 figures provided by the county council show a further 4,230 acres of Maori land leased to Pakeha, for which the occupiers would also have been liable for general rates.³⁰

As a result, Kawhia County Council continued to plead lack of funds to argue the case for free grants for works. The Public Works Department’s 1923 authorisation of £12,979 on 14 different works within the county was considered by the district engineer to ‘probably represent the highest proportion of any County in Auckland District. I consider that the Kawhia County Council has been exceptionally well treated...’³¹ The council also continued to balk at taking over maintenance once the roads had been constructed – a statutory requirement for local bodies – and it was not December 1927 that the council formally resolved to provide for the future maintenance of metalled roads involving government grants.³² The council’s objection in 1925 to the government’s official ‘handing over’ of the Awaroa-Waiharakeke Road had provoked a stern rebuke from Public Works Minister Coates.

The Government looks to the Kawhia County Council to make special endeavours to provide funds for the maintenance of its roads, which have practically wholly been formed with State funds. It appears that there is a big shortage in the County revenue in that total of rates collected is far below total of rates levied.³³

Coates reminded the county that all roads, whether formed or not, were the county’s responsibility to maintain. His suggestion that, in light of the sparse settlement served by the Awaroa-Waiharakeke-Kinohaku and the Kawarua Roads, they be declared county roads (enabling a county-wide contribution to their upkeep) – was delivered hand in glove with the threat that insufficient provision for maintenance would endanger further government financial assistance with formation.

²⁸ ‘County of Kawhia’, 1950, in 233033 Maori land, Otorohanga DC; DB:1733

²⁹ Kawhia County Council balance sheet, 31 March 1922, in BBAD 1054 2298B 15/5 part 1; DB:1541

³⁰ ‘County of Kawhia’; DB:1733

³¹ Hamilton assistant engineer to Auckland district engineer, Public Works, 27 March 1923, BBAD 1054 2298B 15/5 part 1, ArchivesNZ Auck; DB:1549

³² Hamilton assistant engineer to Auckland district engineer, Public Works, 10 February 1928, in above; DB:88.

³³ Minister Public Works to clerk Kawhia County Council, 16 March 1925, in above; DB:1551

The council responded to the criticism with the familiar refrain that the shortage of county revenue was due to the fact that one-third of the county rates were levied on land in Maori occupation.

The Council has experienced some difficulty in providing adequate funds for the maintenance of its roads owing largely, if not entirely, to the large area of Native Land in Kawhia County. Many of the roads, especially those adjacent to the harbour, are constructed for the most part through native land. Particularly is this the case with the road from Kawhia Township round the harbour to Kinohaku. Undoubtedly, owing to the contour of the country and the location of the lands acquired and opened by the Crown, this has been unavoidable, but the effect has been to impose a greater burden on the European ratepayer than in counties where there is no native land. It should be borne in mind that as settlement in this district is sparse, the length of road to be maintained, per settler, is considerable, and in addition, the ratepayers have, in this County, to provide revenue for maintaining roads serving native lands.³⁴

Kawhia County Council, the Minister was assured, had done all it could in the circumstances to maintain all its roads, and nor did it seek to shirk from its responsibilities. Of interest in the reprimand from the Minister however, is the suggestion that county mismanagement lay behind the ongoing poor state of the roads in the district. Coates responded in turn that he was well aware of the conditions within Kawhia County, and that these had been taken into account when his first letter was written.³⁵ A similar chicken-and-egg scenario is evident with the council's reluctance to accept the Public Works Department's offer of a £2 to £1 subsidy to renew a bridge serving two settlers, on the grounds that its required contribution of £90 comprised the whole of the monies available for maintenance in the riding.³⁶ This was countered in turn by the district engineer's refusal to consider more favourable terms, because the area was not burdened by special rates.³⁷

The Kawarua Road linked Kawhia County with its neighbour to the north (see map *Aotea Harbour: Access to Maori Farms 1930-1956*). The route is shown as one of the proposals in Raglan County's works scheme of 1918, which received Public Works endorsement by way of a grant to form the dray road by 1924. The importance of the road to the district was not necessarily shared by Kawhia County Council, for it served only six Pakeha ratepayers within the county, the majority of the route running through Maori land. When this was pointed out to the Minister of Public Works, the district engineer was directed to ask the Waikato Maniapoto District Maori Land Board to consider opening the area for

³⁴ Kawhia County Council clerk to Minister Public Works, 12 May 1925, in above; DB:1553

³⁵ Minister Public Works to clerk, Kawhia County Council, 1 June 1925, in above; DB:1555

³⁶ Engineer in chief & Under-Secretary Public Works to Auckland district engineer, 31 March 1926, in above; DB:1564

³⁷ Auckland district engineer to Permanent Head, Public Works, 26 August 1926, in above; DB:1569

settlement: 'Such action would help to justify the construction of this road and at the same time should provide certain revenue for maintenance purposes.'³⁸ By September 1925 it had been discovered that none of the Maori land adjacent to the Kawaroa Road was in fact vested in the board, but Maori freehold land.³⁹ In February 1926 local MP Stewart Reid passed on settlers' requests for a £7000 grant to get the road completed as far as Sydney Thorn's property. The following month the district engineer confirmed that £2100 had been expended on the road, which was proceeding as fast as funds permitted. He also referred to a letter from an M Edwards of Moerangi (possibly Marae Edwards) with respect to the maintenance of the portion of Kawaroa Road formed so far – over two miles – and the reiteration that maintenance was a county responsibility, not a government one, suggests that the county was once again failing its duty.⁴⁰

In addition to propping up the beleaguered council with free grants and comparatively generous subsidies, in its role as State coloniser, the Crown appears to have retained a residual responsibility for its tenants. For example, in 1923 one such lessee wanting to improve access to his frontage wrote to the Minister of Public Works, rather than approach the local council. He was told by the Minister that doing so was possible, but would entail an additional loading onto the capital value of the land, and an increased rental. Significantly, an additional comment by the Minister why the work could not be charged against the Public Works Fund was that extending the road beyond his section would benefit principally Maori land.⁴¹

The extent of Pakeha settlement in Kawhia County was not enough to sustain the development of the requisite local infrastructure: by the 1920s many settlers were still coping with bridle tracks and dray roads, impassable in winter. In turn, the continuing poor access was blamed for the abandonment of Crown leaseholds as economic conditions worsened.⁴² As the Great Depression took hold, Broadfoot MP proposed a road improvement scheme for Kawhia County using relief workers to boost settlement in the 'backward county', justifying the special consideration with the protection of Crown assets:

The roading, settlement, deterioration and other problems affecting the large area of land south of Kawhia Harbour, in which the Crown through Treasury, the Public Trustee, Lands and Native Departments is vitally concerned, are important enough to justify a special enquiry, and I recommend that a Committee be set up for the purpose. I do not think that the possibilities of the area have been envisaged as a

³⁸ Engineer in chief to Auckland district engineer, Public Works, 1 June 1925, in above; DB:1556

³⁹ Auckland district engineer to Permanent Head, 29 September 1925, in above; DB:1559

⁴⁰ Auckland district engineer to Permanent Head, 19 March 1926, in above; DB:1563

⁴¹ Minister Public Works to EW Speck, 15 September 1922, BBAD 1054 2298B 15/5 part 1; DB:1550

⁴² Engineer in Chief to Hamilton assistant engineer, Public Works, 26 August 1931, in above; DB:1588

whole, and particularly measures for improving the securities held by the State there.⁴³

Broadfoot and the county council proposed to give all sections all weather access, estimated by Public Works staff in September 1931 to cost £94,100 to form; and a further £127,100 to metal; a total estimate of £221,200. The assistant engineer considered the expenditure an unsound investment:

The history of development of these high countries is tragic as instanced by failures in Moerangi block, Taumatotara Block, Tapuaehaunuku block and many blocks south of Kawhia County. Present farming conditions demand artificial manures and to apply these in harsh broken country as well as combat second growth and water fern will break any man with limited capital. Many experienced men have tried to do it but have been beaten and it is essential that the Government protect inexperienced men from inevitable failure.⁴⁴

Rather, the assistant engineer suggested a lesser scheme to give existing settlers all weather access, involving the formation of 38¾ miles of road and 60½ miles of metalling, estimated to cost £83,700.⁴⁵ Works already in hand by September 1931, or for which money had been provided, amounted to £37,210 on 11 roads. Seven of these projects were undertaken free to the county under Public Works relief, representing £29,836 of expenditure. For two of the projects the government provided a subsidy of 2:1 and 3:1; and in only two cases was the cost of metalling borne entirely by the council.⁴⁶ In passing on this information to the Permanent Head in Wellington, the district engineer recommended further improvement to just four roads: Kawaroa, Pirongia West, Kaimango and Lemon-Point-Te Maika/Whakapirau Valley Road, at an estimated cost of £27,500. He also commented that the improvements involved in the lesser scheme would also cost around £2000 each year to maintain, and noted that it would be 'extremely likely that Government assistance would have to be given to the County to cover this necessary maintenance.'⁴⁷

9.1.5 Service to some

In later years, Kawhia County's decline was blamed on 'a quarter century of apathy and neglect by a succession of governments, as a result of which the roads have reverted and fallen out of use.'⁴⁸ Yet it is clear that the government continued to prop up local government with grants well in excess of its usual provision. In 1955 the district engineer commented that the county's road network had been achieved by

⁴³ Broadfoot MP, cited in above

⁴⁴ Hamilton assistant engineer to Auckland district engineer, 8 September 1931, in above; DB:1596

⁴⁵ Auckland district engineer to Permanent Head, Public Works, 12 September 1931, in above, DB:1600

⁴⁶ Hamilton assistant engineer to Auckland district engineer, Public Works, 8 September 1931, in above; DB:1595

⁴⁷ Ibid; DB:1602

⁴⁸ 'New Hope for Kawhia', *The Daily News*, 4 August 1955, in IA 1 3305 197/781; DB:39

the large expenditure of free Government money, carried out mainly by the Public Works Department prior to the Second World War.⁴⁹ In 1939 the Engineer in Chief admitted to a policy whereby counties with large areas of both Maori and Crown land received ‘special consideration’ over and above existing distribution arrangements which already took these factors into account.⁵⁰ In the case of Kawhia County it is clear that the financial support was partly the result of the large proportion of Crown land in the county, the legacy of failed settlement. Over 18 per cent of the county area was idle or reserved non-rateable Crown land.⁵¹

The fact that the interests of Pakeha settlers were paramount in this government-sponsored provision becomes very clear from the assistant engineer’s breakdown of district roads in 1931, set out in the table below:⁵²

Road	Acreage	Pakeha occupied	Unoccupied Crown	Unoccupied Maori Land Board	Kawhia County Council	Named Maori occupiers	Maori land
Awaroa-Mahoe	15,995	9,051	2,856		1,667	990	1,431
Taumatotara East	6,645	4,778	754	899	214		
Mahoe	3,508		385	1,954		1,169	
Toi	9,132	5,638		2,397		787	310
Te Maika	7,947	7,743				204	
Ounu	6,225	2,794	939	1,685		405	402
Pirongia West	9,375	7,126	2,171				78
Hauturu	8,806	3,634	5,172				
Taumatotara Block Access	2,280	853		577			850
Taumatotara West & Te Maika	3,381	3,364	17				
Lemon Point to Te Maika	2,703	2,703					
Kaimango	6,346	4,925	1,421				
Kihi	5,905	4,875	655				375
Total	88,248	57,484	14,370	7,512	1,881	3,555	3,446

⁴⁹ Hamilton resident engineer to Hamilton district commissioner, Works, 7 June 1955, IA 1 3305 197/781; DB:43

⁵⁰ Engineer in chief, Public Works to Under Secretary Native Department, 12 October 1939, MA 1 404 20/1/1 pt 4; Towers DB:635

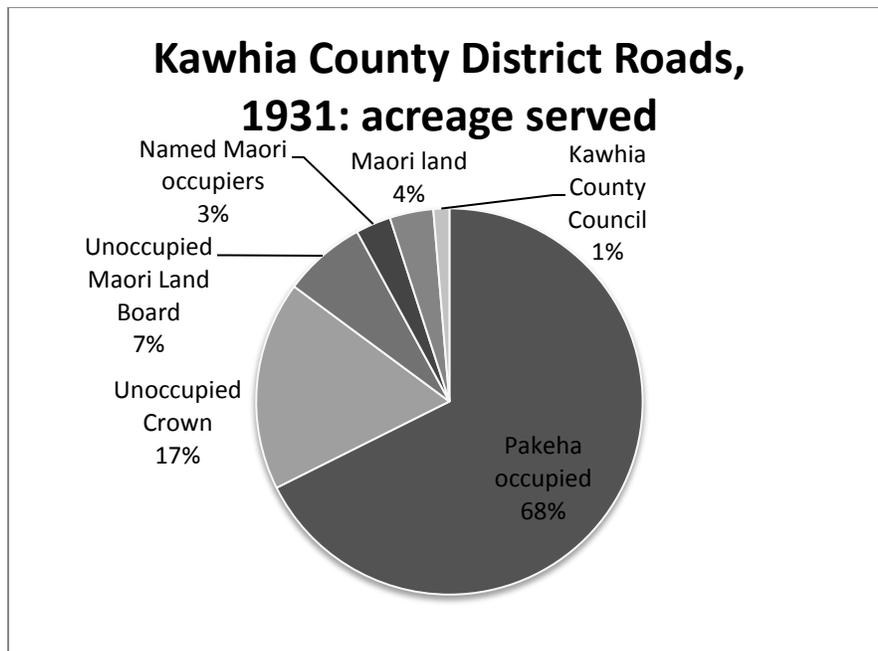
⁵¹ ‘County of Kawhia’, 1950, 233033 Maori land, Otorohanga District Council; DB:1733

⁵² Breakdown of district roads with Hamilton assistant engineer to Auckland district engineer, Public Works, 8 September 1931, BBAD 1054 2298B 15/5 part 1; DB:1590-94

It is the case, as the Kawhia County Council was wont to point out, that the main county roads joining the various enclaves of Pakeha settlement did run through Maori land. The Harbour Road, Kawaroa Road, and the Awaroa-Mahoe Road listed above, could all said to have ‘served’ Maori land. Yet in the words of the council itself, this was ‘unavoidable’ because Maori refused to part with their acres. Maori land was included within special rating districts in other counties for much the same reason. On the other hand, what the above table clearly shows is the reality of local government service to ratepayers: district roads were formed to access Pakeha settlement. No such provision was ever extended to further Maori interests.

Again, given the prevailing system, it seems like an obvious point. But the impact for Maori was further marginalisation. Most of the named Maori occupiers in the above table were served by the Mahoe and Toi Roads. Yet the proposed improvements to these roads did not go ahead, on the advice of the president of the Maori Land Board that there was very little prospect of settlement because the country was very rough, covered with heavy bush, and would be too expensive to bring into production.⁵³

Expressed another way, the breakdown of district service strongly brings home the flip side of the argument, often articulated by Maori, that the blatant lack of local body provision nullified any obligation for Maori to pay rates:



Given the rationale behind special rating districts, that those benefiting from local works should contribute to the cost, the startling revelation shown in the above pie graph arguably gives force to the

⁵³ Auckland district engineer to Permanent Head, Public Works, 18 December 1930, in above; DB:1587

contention of ‘no roads, no rates’. It should also temper consideration of local body grumbling about the non-payment of rates from Maori land.

9.2 Provision for Maori

In provincial times it has been shown that the interests of Maori were met to an extent by the oversight of the Native Minister. Early roads in Raglan County were built through Maori land with Maori labour, the government grants for this work administered by the district road boards. The principal interest of the boards however, remained with meeting the local needs of their constituent ratepayers, and little obligation existed to consider Maori interests outside of tagged government funds. This became even more the case once the role of these road boards was taken over by county government.

To a limited extent, where it impacted on settlement, the government filled the breach. In Raglan County for example, the Public Works Department maintained portions of the road running through Maori land, from which no rates were derived.⁵⁴ The Public Works concession for the upkeep of roads in the Matakowhai riding detailed above is another example, and indeed the wholesale government bail-out of the Kawhia County for the duration of its existence – through free grants and generous subsidies – can arguably be attributed to this same factor, although this was undoubtedly also due to the high proportion of unoccupied Crown land. Unlike earlier times however, this financial support was given without any corresponding oversight to ensure that Maori interests were protected or advanced. Rather, the government – through the agency of the Public Works Department – increasingly diverted Maori appeals for access back to the local government, with predictable results.

For their part Maori continued to turn to the Native Minister for intercession. In February 1926 H Paekau of Te Kopua, Raglan, approached Maui Pomare for government funds to maintain the public road from the pa to the sea. The matter was referred to the Minister of Public Works. The road – just over half a mile long – had been formed 20 years before to serve the Maori community living there, although tourists also used the access to Ocean Beach in summer. The road had not been maintained by local government and when the matter was referred to the district engineer, he considered that the Raglan County Council or Town Board should provide the estimated £140 to repair the road, rather than the government.⁵⁵ This opinion was in turn communicated back to Pomare, with the additional comment that the road was one

⁵⁴ Hamilton assistant engineer to Auckland resident engineer, 24 March 1910, BBAD 1054 2412A 15/12 part 1, ArchivesNZ Auck; DB:1501

⁵⁵ Auckland district engineer to Permanent Head, Public Works, 7 April 1926, in BBAD 1054 2298B 15/5 part; DB:1566

‘which from a settlement point of view does not warrant Government expenditure on either reformation or maintenance.’⁵⁶

Locals at Kinohaku similarly petitioned the Native Minister for access in the winter of 1929.⁵⁷ Pakeha neighbours who owned the land between Hauturu West 6437 and the Awaroa-Waiharakeke-Kinohaku Road were no longer willing to allow local Maori to traverse their paddocks to school or, significantly, to take cream out. Forced instead to follow the foreshore to the Waiharakeke Bridge, the petitioners asked for a bridle track and proposed the route. The matter was again referred to the Public Works Department, who sent the assistant engineer out to investigate. On this occasion, the request was met with the intriguing suggestion that the Waikato Maniapoto District Maori Land Board should pay for the necessary access, or load the interested properties with the estimated cost of the work.⁵⁸ This wisdom was repeated back up the chain of command and ultimately passed on by the Permanent Head of Works to the Native Minister. It was a reference to the Maori Land Board’s power to form roads giving access to vested lands: the major hitch being that the Maori landowners seeking access did not live on vested land.

From the outset of forced settlement under the aegis of the Maori Land Boards, access to such settlement was to be borne by the vested land itself, advanced in the first instance by the Public Works Department and recouped from sales or lease revenue. A common complaint by local government was that in the absence of any provision having been made, it fell to the lot of the local body to provide these Pakeha occupiers with access (see 2.2.3, 2.2.6). It is clear from the example above that the role of the Board was misunderstood by the Public Works Department, and in fact there is evidence that Coates himself, in his capacity as Minister of Public Works, suffered from the same misapprehension. In August 1925 he advised Maui Pomare that access to Maori land in the Kakepuku block should be funded by the Native Land Board, and the cost charged against the land.⁵⁹ It was subsequently pointed out by the Auckland registrar that the land was not vested in the board, ‘which therefore has no power to incur any expenditure on the proposed road.’⁶⁰ It is difficult to avoid the conclusion that by the 1920s Maori were so marginalised in the whole system of local service provision, that those involved in government supervising this provision – from the district engineer to the Minister himself – were unaware of the realities facing Maori, and the way in which they could fall through the gaps.

⁵⁶ Minister Public Works to Sir Maui Pomare, 12 April 1926, in above; DB:1568

⁵⁷ Copy of petition (translation), 12 July 1929, in above; DB:1582

⁵⁸ Minister Public Works to Minister Maori Affairs, September 1929, in above; DB:1584

⁵⁹ See Coates to Pomare, 11 August 1925, MA 1 1368 21/8/1925; DB:708

⁶⁰ Auckland registrar to Under-Secretary Native Department, 30 September 1925, in above; DB:709

A callous and moving example of the government's failure to ensure access to Maori communities is dealt with in some length in the following chapter. Taharoa was perhaps the single largest community in Kawhia County which from 1920 actively pursued development on its own terms. The existing government access radiating from the harbour was not maintained by council, despite the fact that the community's dairying venture was used by the council as the pretext to participate in the consolidation rates compromises of 1928. In the event, the lack of provision proved to have devastating economic and social consequences, both for the community and the county at large.

Taharoa was by no means an isolated case of local government neglect: as set out below, even those dairy farmers with the weight of the Native Department behind them faced years of milking without access, or without adequate maintenance to their roads, with a similar result. It is also the case that Maori communities made do with the way things were, and helped themselves where they could. In January 1927 for example the Public Works engineer remarked that the Maori community at Rakaunui had built a mile of road connecting the settlement and school to the Awaroa-Waiharakeke Road themselves, which was said to be in good order.⁶¹ A Pakeha neighbour who had recently purchased an 80-acre coastal block there described their lands as fenced and partially improved.⁶² This community continued with small-scale dairying until the 1950s, living in conditions the Maori Affairs welfare officer described at that time as 'extremely deplorable'.⁶³ Most of the housing consisted of either one-room dilapidated wooden structures or punga whare, and it was noted that a number of the small farm holdings lacked access. A similar sorry report was made about conditions at Hauturu, close by. With the exception perhaps of Taharoa, these same conditions prevailed throughout the counties of Kawhia and Raglan. In 1938 Pei Jones had remarked that the main population centres in Kawhia County were at Taharoa, Kinohaku, Marokopa, Rakaunui, Oparau, Aotea and Kawhia, and that at least 80 per cent of the homes were of the most primitive order, and living conditions generally unsatisfactory.⁶⁴ The Rakaunui and Hauturu communities were both situated on Awaroa Block, which was targeted so heavily by Kawhia County Council applications in the 1950s for vesting in the Maori Trustee for alienation, on the grounds of the owners' neglect to farm (see Chapter 6).

9.2.1 Maori Affairs development

⁶¹ Assistant engineer to Auckland district engineer, Public Works, 10 January 1927, BBAD 1054 2298b 15/5 part 1; DB:1570

⁶² Assistant engineer to Auckland district engineer, Public Works, 28 November 1927, in above; DB:1579

⁶³ 'Housing survey – Rakaunui', 9 March 1955, AAMK 869 W3074 1022B 30/3/43; DB:1198

⁶⁴ Te Kuiti field officer to Auckland registrar, Maori Affairs, 2 August 1938, in above; DB:1195

The advent of State development of Maori land from the 1930s resulted in a new government interest in the provision of access to such lands. In sizing the Kawhia County up for development in 1931 for example, Ngata took cognisance of the roads that would be required to facilitate the farming ventures, and maintenance issues were referred by the farm managers to the registrar at Auckland.⁶⁵ In some cases, advantage was taken to place lands under development that were already served by roads, such as the Kawaroa Road mentioned above. As it happened, this did not always ensure that such access was adequately maintained.

Road formation in these cases was funded by the Board of Native Affairs, and the roads themselves constructed by Maori under departmental supervision (as part of the development scheme) or through unemployment grants, and then 'taken over' by the county council who became responsible for maintenance, or not. The reality was that even with the weight of the Department behind them, farmers on Department units in some areas continued farming for years without so much as a farm track.⁶⁶

From 1944 the Department of Maori Affairs began to argue for a special Roads Vote from Public Works to provide such access. It was argued that most of the land under development was unable to bear the cost of the necessary roading, and that it was futile to charge the costs to such properties only to be compelled later to write them off.⁶⁷ Under-Secretary Shepherd argued that the cost of roading should be borne by the State as part of the policy to promote the wellbeing of Maori farming communities: 'If these roading requirements are not provided development and settlement will in many cases languish and possibly fail.'⁶⁸ In June 1946, the same arguments were used to convince Treasury to set aside an allocation specifically to provide access to development lands:

Much of the Native land available for further improvement or development and subdivision is second class, near marginal, or marginal land. In consequence the cost of bringing it into production often equals and sometimes exceeds the land value, without allowing for the cost of providing access. There therefore remain few areas whose development is now in a strict sense economic. Nevertheless, this Department must continue to develop such areas, because the policy for land development is determined by the sociological and economic necessity for urgent integration of the Maori in the national life of New Zealand on a basis of equal opportunity and responsibility with the pakeha. Of necessity the land must be used where available to the owners. Any immediate financial cost to the State would be

⁶⁵ See for example farm director to Auckland registrar, Maori Affairs, 16 December 1932, MA 1 474 21/1/29; DB:695

⁶⁶ Under-Secretary Maori Affairs to secretary Treasury, 24 June 1949, AAMK 869 W3074 737b 22/1 pt 1; DB:1158

⁶⁷ Under-Secretary Maori Affairs to Native Minister, 13 November 1944, in above; DB:1130

⁶⁸ Ibid

more than offset by the ultimate gain to the nation, as a whole, and to restrict the development of such land because it is unable to bear the cost of providing access would to my mind be a very short sighted policy indeed.⁶⁹

Treasury eventually agreed to an annual provision of £50,000 – Vote Roads: Maori – to be expended by the Public Works Department at the direction of Maori Affairs. The prior consent of the local body to take responsibility for future maintenance of such roads was required before such works could begin. Predictably, an immediate issue was the unwillingness of local bodies to do so, particularly in areas where non-payment of rates prevailed. Rather than obtaining the outright agreement to future maintenance as stipulated, Public Works officials were faced instead with qualified undertakings from Northland local bodies to ‘accord the road when completed[,] maintenance within the limits of the revenue available.’⁷⁰ Pressed for some assurance that rates would be paid from Maori properties served by the roads, Shepherd told his colleague in Public Works that the Department would rely on its current practice of assisting with rates collections, but that ultimately it was a matter for local government:

It is observed in some cases that local bodies are not as active as they should be in this direction. In other cases their returns showing the percentage of the collected Maori rates is inaccurate in as much as Maoris with European names are not included and lands leased from Maori are not referred to. *Generally it is observed that where roading is provided Maori rates are not a problem and as I have previously advised on this point I am confident that with the provision of access and the development of the land this problem will cease to exist.*⁷¹ [author’s emphasis].

To his Minister, Shepherd also recommended that where Maori were temporarily unable to afford to pay rates, the Department should contribute towards the maintenance of the particular road, with the caution that ‘[i]t is not proposed to advise Local Bodies of this arrangement’.⁷² The Minister’s response to this suggestion is not on file.

The scheme was designed only to meet the needs of development lands under Part 1/1936, those lands in which the Crown had a financial interest. In spite of Shepherd’s rhetoric about the economic and sociological needs of Maori communities, it was not extended to independent Maori farmers who also endured having no access. The scheme was in place by 1947 with four works selected within Te Rohe Potae: the formation and metalling of Waimiha Valley Road, Maramatuha Road, Ngutunui Access Road

⁶⁹ Under-Secretary Native Department to secretary Treasury, 28 June 1946, in above; DB:1132

⁷⁰ Whangarei resident engineer to Engineer in Chief, Public Works, 19 January 1948, in above; DB:1149

⁷¹ Under-Secretary Maori Affairs to Under-Secretary Public Works, 18 December 1947, in above; DB:1146

⁷² Under-Secretary Maori Affairs to Minister Maori Affairs, 6 February 1948, in above; DB:1151

and Hoopers Road.⁷³ These were still under construction in 1950.⁷⁴ Although other works were proposed for the 1950/51 year, the expenditure of the Vote within the King Country was relatively modest. In 1961/62 the vote was reduced from £60,000-70,000 to £41,000.⁷⁵

9.3 Road access to Aotea farmers

The roads discussed in the following section have been set out in the map *Aotea Harbour: Access to Maori Farms, 1930-1956*, produced by Tutahanga Douglas. This map also depicts the extent of Maori land under development – by Maori – based on evidence in Terry Hearn’s Land Titles, Land Development, and Returned Soldier Settlement Report, information in Maori Affairs files, and testimony given to the Maori Land Court in the 1950s about ‘reverted’ farmlands, areas ‘in grass’, and abandoned homesteads.⁷⁶ The map does not differentiate between land farmed under Maori Affairs supervision and that farmed independently, and it is readily acknowledged that the extent and nature of farming would have varied depending on the resources of the different landowners. In effect then, the ‘hatched’ area depicting land under development represents occupied land for which there exists evidence that farming endeavours, however humble, were pursued. It is likely that the area so shown is a conservative depiction. Finally, the map also identifies the blocks that became the subject of local body application for vesting in the 1950s, primarily on the grounds of neglect to farm. A major contention of this report is that the failure of farming endeavours by this time was directly related to the lack of local body service to the Maori farmers in the district.

By the 1920s the number of Maori engaged in dairying around the Aotea harbour was significant. In the local history of the Te Mata Aotea district, at least 11 of the 21 listed early suppliers to the co-operative dairy factory at Te Mata were Maori from the northern reaches of the Aotea harbour, although unfortunately in this account ‘early’ is not tied down to a specific time period.⁷⁷ The cream run itself from Makomako was operated by a number of these small-time Maori dairy farmers and in 1925 Raglan County Council approached the Native Department for a grant to improve the Te Maari crossing on the grounds that it was ‘largely used by Natives in that District’.⁷⁸ (A request which was turned down on the grounds that the Department had no funds for this purpose, and that none of the lands served by the road

⁷³ Schedule in above; DB:1145

⁷⁴ ‘Maori Affairs Roading as at 1/4/50’, in above; DB:1169

⁷⁵ Secretary Maori Affairs to Hamilton district officer, 25 May 1961, BAZQ 4958/605g 36/1; DB:1343

⁷⁶ TJ Hearn, p 199 shows areas gazetted for development; MA 1 474 21/1/29; MA 483 2/1/103; notes in Appendix 2

⁷⁷ RT Vernon, CR Buckeridge, ‘Te Mata Aotea’, p 30. Maori farmers listed were Dick Huia, Tom Horo, Kahu Rangiawha, W Waitere, George Maihi, Stan Maihi, J Taurira, Tohi Apiti, Ruruku Rangiawha, J Shadrock and Whatu Apiti.

⁷⁸ Raglan County Council clerk to Under Secretary Native Department, 12 November 1925, MA 1 1375 1925/477; Digital DB: ArchivesNZ Wgtn/MA 1 files, MA1 1925-477

were vested in the Waikato-Maniapoto District Maori Land Board).⁷⁹ In the early 1930s, some of these farmers elected to come under Maori Affairs development, and the Kawhia Development Scheme also included Maori units on the southern shores of the harbour near Okapu. There remained a number of farmers who continued to farm independently.

9.3.1 Kawaroa Road

Ngata's personal interest in land development around the Aotea harbor seems to have prompted the completion of the Kawaroa Road, (also called Kauroa Road), linking Makomako to the butter factory at Oparau. The formation of this through road had begun in 1924, but for a number of years ran only the five miles to Sydney Thorn's rate-paying property (Sec.4 Blk.III). By 1932 the 13-mile Kawaroa Road to Makomako, as well as a short stretch of road linking Makomako to the Te Maari bridge (and from there to Raglan), known as Union Road, had been formed.⁸⁰ At this time, these roads were said to serve 18 properties, all of them Maori land, and 10 of them in dairy production 'with a big likelihood of more coming in especially if the road is metalled.'⁸¹ In August that year JB Vowles, a Pakeha farmer in the district who had represented the Matakowhai Riding on the Raglan County Council, wrote to Ngata with news that 'an injustice is being done here to your followers.'⁸² Vowles claimed that the Kawhia County Council was deliberately neglecting Union Road despite the fact that metal was 'very very handy' and an unemployment camp close by. 'Nearly all the children attending Mako Mako school have to traverse Union road. It is also our mail route and serves our Post Office and store in other words it is the most particular road in the district.'⁸³ The Department's farm director discounted Vowles' claim that the council was not maintaining the road in a bid to force dairy farmers to drop their cream at Oparau, but he did agree that Union Road was 'a very important length which should be metalled'.⁸⁴ In his view, the metalling of Kawaroa Road, still impassable in winter, was the first priority, followed by that of Union Road. Third was the development of a short 1¼ mile coastal route linking the terminus of Union Road at Te Maari with Pakoka Road at Te Papatapu. Part of this route, known as the Union Road extension, had already been formed the year before at the instigation of Ngata. In addition to providing access to Wiri Waitere's unit, this roadline was considered to be an important connection from Te Papatapu unaffected by tides; a circuit for the cream cart and mail from Te Mata and Raglan; and an alternative route for the

⁷⁹ Auckland registrar to Under Secretary Native Department, 5 January 1926, in above

⁸⁰ See sketch of roads in MA 1 474 21/1/29; DB:696a

⁸¹ JB Vowles to AT Ngata MP, 4 August 1932, MA 1 474 21/1/29; DB:694

⁸² Ibid

⁸³ Ibid

⁸⁴ Farm director to Auckland registrar, Maori Affairs, 16 December 1932, in above; DB:695-696

community at Makomako in case of slips on the problematic Te Maari Road.⁸⁵ The farm supervisor considered it would become the future main route north. Further action by the Public Works Department however, had been brought to a halt by the county council's failure to have the road legalised.⁸⁶

In the event, the recommendation from the Native Department's farm supervisor proved optimistic, for even local body maintenance of the existing formed roads proved challenging. Vowles' complaint prompted the Public Works Department to metal Kawaroa Road in 1934, but by 1940 it was described by the Kawhia County Council itself to be 'in very bad condition'.⁸⁷ The road had been closed to heavy traffic each winter to conserve the metal, but in many places had deteriorated to a bog. All but one property served by the road was Maori land, including four farmers on unit schemes.

In October 1940, the county council informed the Under-Secretary for the Native Department of its recent application for a Public Works grant of £300 to re-metal the road, warning that 'unless assistance from the Government is forthcoming, it is feared that the road may go out of existence.'⁸⁸ For its part, Public Works responded that the work had not been included in the annual estimates by the county and that in any case, maintenance was a county responsibility.⁸⁹ A £300 grant from employment funds was paid to the council by the Native Department, on the condition that unemployed Maori be given the work, which was expended on filling the worst patches.⁹⁰ In April 1941 the county council asked for additional funds to continue the work. The council claimed to have spent £120 on the works 'at its own cost', and refused to spend more. This request was endorsed by the Auckland registrar on the grounds that 'the Kawhia County is an impoverished one financially' and further sums appear to have been granted towards labour costs. The wages subsidy however did not cover materials or cartage. In July 1942 the Native Department was approached by the council, together with local MP Broadfoot, about rates payments from the scheme lands. It was claimed that the council received £22 from the single Pakeha ratepayer on the road, and spent between £200 and £400 each year clearing the road of slips.⁹¹ It was given the standard response, that any surplus operating funds from any unit would be put towards rates payments. Where this was not possible, 'I suggest you take the matter up with the settlers direct.'⁹² Given the impasse, it is safe to assume that the maintenance of Kawaroa Road remained problematic until the amalgamation in 1956.

⁸⁵ EM Buckeridge to Minister Native Affairs, 15 September 1931, BBAD 1054 2298b 15/5 part 1; DB:1603

⁸⁶ Assistant engineer to Auckland district engineer, Public Works, 30 September 1931, in above; DB:1605

⁸⁷ Kawhia County Council clerk to Under-Secretary Native Dept, 3 October 1940, MA 1 474 21/1/29; DB:698

⁸⁸ Ibid

⁸⁹ Engineer in chief & Under-Secretary Public Works, 31 October 1940, in above; DB:700

⁹⁰ Kawhia County Council clerk to Under-Secretary Native Department, 5 April 1941, in above; DB:703

⁹¹ Under-Secretary to Auckland registrar, Maori Affairs, 28 July 1942, in above; DB:706

⁹² Native Minister to chairman Kawhia County Council, 14 August 1942, in above; DB:707

9.3.2 Aotea Extension Road

On the southern shores of Aotea, Maori dairy farmers continued their labours without any access whatsoever. The Aotea Road linking the Kawhia and Aotea harbours stopped at the landing at the bottom of the hill. Maori farmers both west and east had to cart the cream cans at low tide along the foreshore to the landing. In 1935 the petition of Tom Wete and 10 others to the Native Minister for access came up against familiar barriers. What was asked for was 1½ miles of road, to service seven dairy units under the Kawhia Development Scheme, and a number of other properties farmed independently.⁹³ The landowners were agreeable to give the land for the road without compensation, and those who could afford to do so were willing to fence the road themselves.⁹⁴ None of the landowners could afford to pay for survey and legalisation costs.

The petition was referred to Public Works, which refused to provide the cost of materials for the works: 'This Department has no funds for such a purpose and it appears to be a responsibility of the owners of the land who might request assistance from the County Council.'⁹⁵ The petitioners' subsequent approach to the county council was turned down.⁹⁶

By June 1939 the roadline had been surveyed by the district engineer and estimated to cost £3550 to form. The following notes by the Under-Secretary for Maori Affairs were written up for the Public Works Department, with a copy sent to Kawhia County Council:

Construction of road is beyond our capacity and is a matter for P.W.D. Native owners are offering land free of compensation and asking for construction in order that they might develop their lands and to enable school children to avoid dangerous beach travelling to school. We are pushing ahead with land development but are handicapped for want of access. Land can carry fencing costs but cannot carry a loading for road. Under the circumstances, and as the road appears to be an important link in the roading of the County its construction seems to be warranted. Work will no doubt be required in the locality to absorb the unemployment – particularly Natives – would be glad if road could be listed for early construction.⁹⁷

In response, Public Works pointed out that the overall funding allocation had been reduced, and that proposals sponsored by the Kawhia County Council had absorbed all the available funds for the season.

⁹³ The Aotea Extension Road, surveyed in March 1940, gave access to the units on Moerangi Pt 3H4, 3H2, 3H3, 3G1, 3G2, 3G3A, 3G6A, 3G6B, all under Native Department supervision, as well as 3G4, 3G5, and 3H1, farmed independently, see sketch in MA 1 483 2/1/103; DB:110b

⁹⁴ Field officer to Auckland registrar, Maori Affairs, 20 May 1936, MA 1 483 2/1/103; DB:96

⁹⁵ Under-Secretary Maori Affairs to T Wete, 6 January 1936, in above; DB:92

⁹⁶ D Whatu to Campbell, 13 March 1937, in above; DB:99

⁹⁷ Notes on engineer in chief & Under-Secretary Public Works to Under-Secretary Native Department, 7 June 1939, in above; DB:100

The Under-Secretary suggested that the council be asked to include the work on its applications for the next financial year, in order of priority.⁹⁸ It proved in fact, the same old stalemate, for the Maori Affairs request had been met by the Kawhia County Council with: ‘... as the question of future maintenance requires to be taken into consideration, my Council will be pleased to press for the proposed road when the matter of the settlement of Native rates has been favourable [sic] dealt with.’⁹⁹

Direct approaches in 1939 and 1941 by Maori Affairs to Public Works continued to be rebuffed on the grounds that funds were not available. In the winter of 1941 the farmers again appealed to government through their MP Paraire Paieka: ‘For nine years now we have been under the Development Scheme, and we have always tried to do our best.’¹⁰⁰ In a further letter John Paki claimed that the existing track was dangerous and impassable in wet conditions, and that the foreshore route was unsafe at high tide, not just for the farmers, but for the 25 school children en route to school.¹⁰¹ A corroboratory complaint addressed to the Kawhia School Committee was passed on to the Minister of Public Works. A concerned resident spoke of the ‘twenty or more’ children forced to cross two miles of foreshore in order to catch the Kawhia school bus: ‘on a cold wet day I have seen these children the tallest shouldering the little ones wading straight out into a half tide on the Aotea beach. This is necessary in order that they may return home before darkness overtakes them.’¹⁰²

Four years later another approach was made by the school committee, via Broadfoot, to the Minister of Public Works. From the Minister’s response it appears that the legalisation of the road line had been at issue, which needed to be done before public funds could be expended. While professing its support for the provision of access to the community at Aotea, ‘the lack of which imposes considerable hardship upon them and their families’, Kawhia County Council maintained that it could not afford to pay the legalisation costs of the road: ‘Regarding legalisation, my Council suggests that as the road would serve only Native land and would be used almost entirely by the Maori settlers, the Government should bear the cost.’¹⁰³ It did agree to take over future maintenance. By this time the county was receiving rates from some Maori landowners: over £45 was paid in the 1944/45 year from properties which would be served by the road – a small sum, but significant in the context of the county’s history. For its part, the Public

⁹⁸ Engineer in chief & Under-Secretary Public Works to under secretary, Maori Affairs, 9 August 1939, in above; DB:102

⁹⁹ Kawhia County Council clerk to Under-Secretary Native Department, 4 July 1939, in above; DB:101

¹⁰⁰ J Paki to P Paieka MP, 1 June 1941, in above; DB:107

¹⁰¹ J Paki to P Paieka MP, 14 July 1941, in above; DB:108

¹⁰² A McKenzie to Kawhia School Committee, 8 August 1941, in above; DB:109

¹⁰³ Kawhia County Council clerk to district engineer, 11 October 1945, 2/1/1 Aotea Road, 233033 Otorohanga DC; DB:1748

Works Department passed on the request for legalisation costs to the Department of Maori Affairs.¹⁰⁴ The road line surveyed in 1940 was proclaimed in November 1946, and formed by the end of 1948. Fencing costs were loaded onto the units. A request for financial assistance for the one farmer outside the scheme unable to afford fencing wire was turned down by the Minister of Maori Affairs in October 1949.¹⁰⁵ Within five years, four properties served by the new road, and another one in the vicinity without access, were targeted by the Kawhia County Council for application under Part 25 of the Maori Affairs Act 1953 on the grounds of neglecting to farm.¹⁰⁶ A notable feature of the properties subject to application is that they were not under Maori Affairs control.

County council maintenance of the entire length of Aotea Road remained an on-going battle. In July 1952 the secretary of the Kawhia District High School Committee wrote a letter of complaint to the council about the state of the road.¹⁰⁷ A week later the manager of the dairy factory at Te Awamutu also explained his concerns to the council:

We have quite a number of Suppliers along this road and the lorry was collecting twice weekly. However on seeing the state of the road I thought it wise to reduce the service to one day a week, as in its present state I think the less the heavy lorry goes [over] the road the better. As a matter of fact the day we went over the road we stuck with a light truck but that was further out past the landing. It will be a serious matter for our Suppliers in that area if we have to curtail the cream service. I also wish to point out that it is impossible to keep cream in good condition for a week, and this is reflected in the quality of the produce we manufacture, and also in the payout to the Suppliers concerned. I do not think it would entail much work to put the road to the landing in good shape and if we can run the lorry as far as that in the meantime more frequently it will be a help.¹⁰⁸

In the 1952/53 year, the county council received £79 in rates from properties served by the road, and had budgeted to spend £100 in maintenance. It had also received a 4:1 Public Works Grant to improve the road, amounting to £1200. In February 1953 it appealed to the Commissioner of Works for an additional free grant of £500, on the grounds that the road 'is practically entirely occupied with Maori farmers farming under the jurisdiction of the Maori Affairs Department'.¹⁰⁹ The council had approached the

¹⁰⁴ Under-Secretary Public Works to Under-Secretary Native Department, 30 October 1945, MA 1 483 2/1/103; DB:111

¹⁰⁵ Minister Maori Affairs to WJ Broadfoot, 26 October 1949, in above; DB:114

¹⁰⁶ Moerangi 3G4, 3G5B, 3G5C, 3G7 and 3G3B

¹⁰⁷ Secretary Kawhia DHS Committee to Kawhia County Council, 1 July 1952, 2/1/1 Aotea Road, 233033; DB:1749

¹⁰⁸ Manager, NZ Co-operative Dairy Co, Te Awamutu to chairman, Kawhia County Council, 7 July 1952, in above; DB:1750

¹⁰⁹ Kawhia County Council clerk to Commissioner of Works, 3 February 1953, in above; DB:1751

Department for a contribution towards its share of the subsidised work, but had been turned down on the grounds that the units were not yet in a position to afford it.

In July 1955 a further criticism by the Citizens and Ratepayers Association about the ongoing poor maintenance of Aotea Road was met by the county clerk with the claim that in the past three years expenditure on the road far outweighed rates receipts.¹¹⁰ His figures however included the subsidised construction works mentioned above. Putting that aside, it would appear that the criticisms had merit: in the past three years the council had received £125 per annum in rates, a total of £375; and spent only £159 in maintenance. In the 1953/54 year just over £1 had been expended on its upkeep. In that year too, Moerangi 3G3B, 3G4, 3G5, and 3G7 became subject to the county council's application for vesting under Part 25/1953 on the grounds of neglect to farm. The wheel had come full circle.

The marginalisation of Maori farming initiatives through local body neglect was arguably a factor in Kawhia County's steady decline. The council's 1947 request to Public Works for a £10,000 maintenance grant stirred the interest of the National Roads Board and Local Government Commission in the amalgamation of the failed entity with its neighbours and in March 1956 Kawhia County was split in two, the northern half amalgamated into Otorohanga County, the southern half into Waitomo County. By the time of its demise, Maori land accounted for 32.5 per cent of the county's unimproved rateable value, but only 14.6 per cent of the county's capital value.¹¹¹ The fact that the county continued to rate on the unimproved value meant that the burden of rating fell heaviest on those served least in terms of road access. Having muddled along with the help of government grants from the outset, the end of Kawhia County as a local governing entity in its own right was featured by one last grab at the public works pie: the affected councils' acquiescence with the amalgamation proposal was acquired with the promise of £662,550 of government funds to be spent on improving the road network both to and within the former county.¹¹² In addition to widening and sealing the main highways in the wider area, certain district roads were also tagged for culverting and metalling grants. The justification for the expenditure of this sum was the impetus it would give to private land development, and that as a result of increased efficiency and land utilisation, 'the financial return to the nation will far outweigh the initial outlay.'¹¹³ Aotea Road was included in the works as far as the landing. Taharoa was not.

9.3.3 *Maihi Access Road*

¹¹⁰ Kawhia County Council clerk to secretary Citizens & Ratepayers Association Kawhia, 6 July 1955, in above; DB:1753

¹¹¹ District commissioner to Commissioner Works, 21 June 1955, IA 1 3305 197/781; DB:59

¹¹² See for eg *King Country Chronicle*, 9 August 1955, in above; DB:38

¹¹³ Hamilton resident engineer to Hamilton district commissioner of Works, 7 June 1955, in above; DB:51

For farmers who had elected not to place their lands under Maori Affairs control, the wait for a road was even longer. In April 1955, George Maihi and others farming at Makomako petitioned Minister of Maori Affairs Ernest Corbett for access to their farms. The timing of this appeal coincided with the demise of Kawhia County, which may have been a factor. Maihi has been already been mentioned in relation to the 1950s vestings, and his unsuccessful bid to lease Moerangi 3D1 from the Maori Trustee (6.1.4). Maihi was a ratepayer by this time who had been milking since the 1920s on Moerangi 3C with two other farming families. He and his neighbours were early suppliers to the Te Mata factory, farming land that local historians Vernon and Buckeridge describe as the best farming land at Makomako.¹¹⁴ Kawhia County Council made an application to have part of this area – Moerangi 3C/4 of 49½ acres – vested in the Maori Trustee for alienation in March 1953 but the case was adjourned for the lack of any title search.¹¹⁵ Under the 1956 restructuring the area became part of Raglan County. In its systematic use of the 1950s vesting legislation against non-productive Maori land, Raglan County Council had promised from the outset to provide the new occupiers with access.

Maihi's 1955 petition with respect to access on account of the hardship it posed to farming was supported by the local school:

The matter has some degree of urgency as with the winter now upon us it will mean that children from that area will either have to attend school late or not at all depending on the tide. The swamp which they have to cross is about a hundred yards wide & in the wet weather the depth of the mud makes in highly dangerous particularly for the smaller children. At the moment four children are thus affected but there are three maybe four more infants still to come to school. Two of these children are approaching seven without having been to school because of the manner in which they have to come. ...

All three of these Maori families are particularly hardworking & respectable people who are anxious to improve the standard of their homes which at the moment are little better than tin shacks due to the difficulty encountered carting building materials across the river & swamp.¹¹⁶

Sent to investigate, the request received the ringing endorsement of the department's field supervisor: 'These people have laboured all their lives (Mr. Maihi since 1925) to develop and farm their land in the face of hardship and privation that has to be seen to be fully believed.' To the conditions described above

¹¹⁴ Vernon, Buckeridge, p 36

¹¹⁵ See schedule with Swarbrick & Swarbrick to Kawhia County Council, 23 March 1953, 5/9 Admin, Application for Land..., Waitomo DC; DB:2552

¹¹⁶ J Grenfell to Corbett, 22 May 1955, MA 1 498 22/1/279; DB:729-730

by the head teacher's wife, Resident Officer Lynds gave some indication of the arduousness of farming for the want of 1¼ miles of road:

At the roadside all farm requirements are unloaded carried down half a chain of steep mud river bank and loaded into a small flat bottomed dinghy. It is about a mile further downstream to the only suitable landing point. From here each item is man-handled up the slippery slope to waiting horses and sledge and so over swamp and the final stage to the farm shed nearly half a mile away.

In this manner every ton of manure and every item of merchandise is handled under the worst possible conditions at least five times, where it should normally only be handled once.

Cream is loaded out on horse-back each morning.

To balance a full can on the saddle horn with one hand and with the other guide a frightened horse upstream more than 80 chains, around six foot mudholes and against a strong current calls for some small measure of skill and endurance.

Because of the stream's depth and swiftness it is only possible to cross at half or ebb tide.

In the face of all this and more, the Shadrocks, Nihos and Maihis have continued to farm; and their farms are not poor by even the best standards.

They have built rough corrugated iron shanties for their families, cleared and grassed about 130 acres of heavy scrub and bush and bought or bred approximately 80 dairy cows.

Fencing and manuring has been carried forward just as far as their limited circumstances would permit.

These are people who are not afraid to strive, in the face of heavy odds and in their own way succeed where scores of others would have faded out long since.¹¹⁷

The officer was aware of Maihi's interest in leasing Moerangi 3D1 which had been vested in the Maori Trustee for the purpose of alienation, and he claimed that all three farming families would be interested in development assistance if the road went ahead. In directing the field supervisor to get a walk-over estimate for the cost of the road he was also advised to approach the county council to have the work

¹¹⁷ Te Kuiti resident officer to Auckland district officer, 14 June 1955, in above; DB:732-733

funded from Vote: Roads access to outlying areas.¹¹⁸ In the event, the work was estimated by the county engineer at £6300.

Having tried the Education Department, the Health Department, the Maori Affairs Department and the local county council, in August 1955 George Maihi appealed to the Leader of the Opposition, Walter Nash.¹¹⁹ Later that month the Under-Secretary for Maori Affairs, Tipi Ropiha, recommended to his Minister that an appeal be made to Public Works to have the work funded from the backblocks access account on humanitarian grounds, as the construction of the road was not thought to be warranted 'from the economic angle'.¹²⁰ For its part, Maori Affairs conceded to put £1000 towards the cost. In November 1955 the Raglan County Council consented to carry out the work, on condition that the whole cost was borne by the government and undertaken only once the county's contractors, surveyors and metal supplies were available.¹²¹ The following month it confirmed that it would pay legalisation and survey costs. The owners for their part were required to provide the land without compensation and to meet fencing costs, with the council stipulating that it would not take over maintenance for the road until it was fenced.¹²² In December Public Works agreed in principle to funding the work on this basis from the Roads Vote: Backblocks Access, but informed the Minister of Maori Affairs that there were no available funds to do so in the current year.¹²³

The cogs of bureaucracy were grinding too slowly for Maihi. In March 1956 he again wrote to Corbett:

I wish here to say something about the road. Our children are forced to undress in order to cross creeks, etc, on their way to and from school daily. We can no longer bear to have our children do this and we are refusing to allow them to go to school.¹²⁴

The hold-up now became the issue of fencing. The settlers involved had agreed to build the fence themselves, but were not in a position to pay the estimated £700 for the materials to do so. Despite the long years of working unaided, the Department for its part did not trust the farmers' ability to improvise: 'if they are permitted to make their own arrangements to supply materials and erect the fence from their own resources, it is felt that such a fence would not be satisfactory, and, in fact, would be a waste of effort

¹¹⁸ Secretary Maori Affairs to Auckland district officer, Auckland, 21 July 1955, in above, DB:734

¹¹⁹ G Maihi to W Nash MP, 8 August 1955, in above; DB:741

¹²⁰ Secretary Maori Affairs to Minister Maori Affairs, 25 August 1955, in above; DB:742

¹²¹ Minister Public Works to Minister Maori Affairs, 16 November 1955, in above; DB:747

¹²² Secretary Maori Affairs to Auckland district officer, 20 December 1955, in above; DB:750

¹²³ Minister Public Works to Minister Maori Affairs, 16 December 1955, in above; DB:749

¹²⁴ Translation, G Maihi to Corbett, 19 March 1956, in above; DB:751

and materials.’¹²⁵ It was May before the field supervisor got out to Makomako to arrange a £50 contribution from each farmer, in addition to their labour.¹²⁶ The Maori Affairs Department subsequently agreed to find the balance of £550 for the fencing. In October 1956 Maihi wrote again to Corbett, complaining that 3 of 12 bags of manure left on the roadside had been spoiled by rain. He was told in turn that the Raglan County Council intended to begin the road in the summer, and that the only hold-up now was the objection of a landowner to the roadline through her land.¹²⁷ The Maihi Access Road seems to have been formed in the summer of 1956, but it came too late: Vernon and Buckeridge recall that a few years after it was built, ‘the last of these Maoris moved to Hamilton and their homes are now vacant and derelict.’¹²⁸

9.3.3 Union Road Extension/Papatapu Road

The epilogue to access for the community of Makomako is provided by Niho Rangiawha’s appeal to Walter Nash, now Minister of Maori Affairs, four years later. Rangiawha was chairman of the school committee, Maori Warden, member of the Kawhia Tribal Committee, member of the Te Mata Hydatids Committee and member of the Raglan Veterinary Club. He was also one of the three farmers served by Maihi Access Road, now farming under Maori Affairs supervision.¹²⁹ Recent slipping on the only road out had cut off the Makomako community from Te Mata. Rather than expend further funds on a problematic piece of road, Rangiawha proposed that an alternative route involving just over a mile of formation be undertaken instead to give the community all-weather access. This route had previously been formed, he explained, but had been neglected. It was in fact the old Union Road Extension referred to above, formed in 1931 to provide access to Maori dairy farmers and never subsequently maintained or taken further by the Kawhia County Council.

Rangiawha’s proposal was endorsed unreservedly by the Maori Affairs’ resident officer as ‘constructively sound and practical and is deserving of the utmost consideration and support.’¹³⁰ Eight Pakeha and 16 Maori families were said to be affected.

The proposed link up will not only be of vital importance to serve the needs of community and district generally but, it would also tend to improve communications and other auxiliary services, including electric power reticulation, school bus services, transportation of farm produce and materials and rural mail

¹²⁵ Secretary Maori Affairs to Minister Maori Affairs, 6 April 1956, in above; DB:753

¹²⁶ Hamilton field officer to Auckland district officer, 3 May 1956, in above; DB:754

¹²⁷ Minister of Maori Affairs to Maihi, nd, in above; DB:761

¹²⁸ Vernon, Buckeridge, p 36

¹²⁹ N Rangiawha to Minister Maori Affairs, 30 July 1959, MA 1 498 22/1/279; DB:765

¹³⁰ Te Kuiti resident officer to Auckland district officer, 19 August 1959, in above; DB:766

service and parcel delivery etc. The provision of the loop-road will eliminate the existing uneconomic and costly R.D. service and empty or dead running by transport operators.¹³¹

The resident officer argued that Maori Affairs had a direct responsibility in the matter, particularly with the development of Maori land, including that which had been vested in the Maori Trustee for alienation under Part 25/1953. And he contended that the proposed road link would have a direct and valuable bearing on the future development and prosperity of the undeveloped Moerangi, Manuaitu, Te Pahii, Tauranga and Raoraokauere Blocks.

Nothing seems to have come of the proposal. In April 1961 the community's call was taken up by the Raglan County Council. In a letter to Maori Affairs, the council argued that the formation of the road – now called 'Link Road' – would enable a round trip to be made in the area, of benefit to school children, dairy farmers and rural mail delivery. The catch, as always, was funding:

You will be aware that this Council is badly pressed for funds to improve its backblock roading and the Council considers that the proposed work is in the same classification as Maihi's Road which was formed and metalled at practically no expense to the County. The only expense to the County in the case of Maihis Road being that of surveyors fees.¹³²

Maori Affairs was asked what help the council could expect with regard to formation, metalling and fencing. Charged with appraising the extent of departmental interest in the project by way of 'unit settlers', the field officer duly reported that the road would make it possible for Niho Rangiawha to continue dairying, and make life easier for another farming lessee in debt to the Department. He also pointed to a number of other small holdings on which Maori were no longer milking because of transport issues.¹³³ In the meantime however, the Auckland District Office had been informed by Head Office of the recent slash to the Maori Road Vote, from £60,000-£70,000 to just £41,000, with the consequent need to 'prune our roading programme to the barest essentials.'¹³⁴ The Link Road project, estimated to cost between £10,000 and £15,000, was one of the casualties. In July 1961 the field officer was told that the county council's expectation that the Department would fund the project could not be met unless the farmers themselves contributed. 'From our knowledge of the Maori farmers who would benefit, none of them would be able to make any substantial contribution and it therefore now appears that the matter of

¹³¹ Ibid

¹³² Raglan County Council clerk to officer in charge, Maori Affairs, 10 April 1961, BAZQ 4958/605g 36/1 ArchivesNZ Auck; DB:1339

¹³³ Te Kuiti resident officer to Auckland district officer, 29 May 1961, in above; DB:1344

¹³⁴ Secretary Maori Affairs to Auckland district officer, 25 May 1961, in above; DB:1343

this road will be held in abeyance indefinitely.’¹³⁵ The four roads in the Auckland district programmed for the 1961/62 year remained on the Maori Affairs Road Vote until their completion in 1966. In March 1966 the district officer in Hamilton reported that the office did not foresee any roading programmes ‘for some time to come’, and signalled its intention to put in a nil return for the coming year.¹³⁶ It appears that the Link Road through to Te Papatapu, now known as Papatapu Road, finally went through some time in the 1980s.

9.4 Conclusion

Earlier chapters have demonstrated that the local government system, as devised and implemented, was inimical to the undisturbed and continued possession and enjoyment of Maori to their lands. Founded as it was on rate-paying, productive, individual parcels, it is also clear that the system was incapable of meeting the needs and interests of Maori landowners, let alone Maori communities. In areas outside the pale of Pakeha settlement such as West Taupo County, it remained defunct. Where Maori land tenure, or Crown land for that matter, impacted on the ability of local government to function it was propped up by grants through the Public Works Department. The degree of government assistance varied depending on the ability of ratepayers within each district to stand on their own two feet: the enduring complaint for the first 60 years of King County local government being that State support was never enough. For the likes of Kawhia County, government subsidies for local infrastructure remained a regular – if somewhat diluted – intravenous line.

In every single case however, this government financial support was intended to mitigate the effects of rates non-payment from Crown and Maori land on Pakeha ratepayers, and applied to advance the interests of the Pakeha settler community. Throughout much of the formative period of road development in Te Rohe Potae, there was no government oversight to ensure that the economic and social needs of Maori were looked after. On the contrary, petitions from prospective Maori farmers to the Native Minister were referred to Public Works who in turn deferred to the local body: this close-woven circle of colonial enterprise admitted no room for tangata whenua. Cast out of this circle for not paying rates, the resulting economic marginalisation made it increasingly difficult for Maori landowners to ever join. This exclusive provision of local infrastructure for the needs of the new settler populations also serves as a convincing vindication of ongoing Maori resistance to paying rates.

The initial optimism with which local government regarded Maori land development has been discussed at (4.1). Looking forward to the eventual rates returns that development promised, local body politicians

¹³⁵ Hamilton district officer to Te Kuiti resident officer, 4 July 1961, in above; DB:1345

¹³⁶ Hamilton district officer to Head Office, 8 March 1966, in above; DB:1349

told the 1933 Rating Commission that they ‘had not tried to force the position’ with regards to rates on the new development, although a large part of the discussion was taken up with the extra burden the development placed on road maintenance. In time, Treasury’s stipulation that rates would not be paid until each unit returned an operating profit tended to reduce whatever goodwill had existed into local body outrage.

Government interest in developing Maori land from the 1920s meant that from this time it was at least aware of the shortcomings in the system. But it did little to remedy the situation. Even when funding was made available for access roads to its own development schemes, as the Kawhia experience shows there was no guarantee that these roads would be maintained by the county council. Raglan County Council continued to expect Maori Affairs funding to provide for Maori farmers, even when they were ratepayers. Although the focus on the counties of Raglan and Kawhia in this chapter has reflected the available historical sources, it is clear that what happened here was commonplace throughout the region. The Department’s proposal to fund construction of Mapiu Road in 1939 to serve its development units there was met by a similar resolution by the Waitomo County Council that:

No provision has been made on the five-year plan for the metalling of this road, and under these circumstances the Council considers that this metalling should not take priority of any road provided for in the five-year plan. It is also the opinion of the Council that those settlers paying rates who are at present without metalled access should have a prior right to any expenditure of metalling as future maintenance of the road is assured owing to rates being collected.¹³⁷

In any case, Maori land development within Te Rohe Potae – Maori Affairs style – was relatively minor. The biggest surprise of this research, given the sustained local body chorus regarding unproductive and idle Maori lands is the extent to which Maori were engaged in small-scale farming – in the face of all the adversities that came with the lack of access. And one of the saddest revelations in this whole story has to be the inclusion in the 1950s local body seizure of lands on the grounds of neglect to farm, of these small dairy ventures of the 1930s that fell by the wayside for the want of a road. The fact that most of Kawhia’s road network was funded with government money, and constructed by the Public Works Department adds to the culpability of the Crown in preserving and fostering this inequity.

¹³⁷ Taumarunui district engineer to Permanent Head, Public Works, 25 October 1939, MA 1 488 22/1/161, not in DB

Chapter 10

The Long Road to Taharoa, 1925-1968

Taharoa was a Ngati Mahuta settlement, and the name of the larger block of over 16,000 acres on the southern headland of the Kawhia harbour. The community there was noted in official sources both for their strong allegiance to the Kingitanga and their equally steadfast refusal to consider alienation. By the 1920s they were also increasingly recognised for their farming endeavours, and the associated hardworking ethic. In addition to sheep and cattle runs, by the mid-1920s cream was packed out and ferried to the local factories at Te Waitere and Oparau, and later transported even further afield. In 1934 Pei Jones described the area as ‘fairly well farmed’, and was doubly impressed because the comparatively high economic and social well-being of the community as a result had been achieved without mortgaging the land or government assistance of any kind.¹

It had also been achieved for the most part in the absence of a road. Tuteao, a rangatira at Taharoa, had appealed to Premier Seddon for a road through the block during the Premier’s visit to Kawhia in the winter of 1903.² A six-foot wide dray road was built by the government around 1910. This legal road ran from the settlement by Taharoa lake, where the school was situated, to the harbour foreshore at Waipapa Bay near Te Maika, a distance of five miles, from which point locals used the harbour launch service – either from Rubey’s landing at Waipapa Bay, or following the foreshore a further three miles to Te Maika – to reach Kawhia across the water. The way was also used by school children living on the coastal headland to get to and from school at Taharoa. But the track was not maintained, other than through local efforts, nor metalled. For like all Maori in Kawhia County, Ngati Mahuta did not pay rates. The road was not included in early 1920s road appropriations for the county, the reference to the ‘Te Maika Road’ in such estimates is thought to refer to the extension of the Lemon-Point-Te Maika Road running south to Marokopa.³ The Taharoa track was left to deteriorate. By 1925 Ngati Mahuta’s agitation for vehicular access prompted the Public Works Department to look into improving the road, but the track record of no

¹ P Jones to Ngata, July 1934, MA 1 29/3/1 part 2; Hearn DB:9/306

² *Kawhia Settler*, 6 June 1903, not in DB

³ Assistant Engineer to district Engineer, 27 March 1923, BBAD 1054 2298b 15/5 part 1; DB:1547

rates payments for road maintenance counted against the farming community. The Under-Secretary explained:

The natives at that time were desirous of having the road widened to permit of vehicular traffic, and the estimated cost of carrying practically out this work was £900, but as it was understood that there were practically no funds available for future maintenance, it was considered that any expenditure of widening would be more or less wasted, and that the road would, no doubt, be allowed to revert to its then present condition.⁴

This chicken-and-egg predicament was to dog the community for the next half a century: the county council reluctant to support road improvements in view of the widespread rates default from Maori farmers at Taharoa; and the landholders equally opposed to pay rates on traditional lands in the absence of any appreciable service; with the Public Works Department principally influenced by the council, rather than local Maori. Small amounts had been set aside since 1925 for minor improvements, to be made available if it was met pound for pound by the settlers or the county council. Three years later nothing had been done.⁵

10.1 Efforts to Obtain Access, 1925-1968

10.1.1 Efforts in the 1920s...

As set out at 3.3.6, in July 1928 a deputation led by Tuteao had again approached the Kawhia County Council to ask that a third of the £3000 granted to the council on account of Maori rates arrears be spent on a road to their settlement. Tuteao claimed that a community of 300, all engaged in productive farming, would be served by the road. Marae Edwards, of Kawhia, had described Taharoa as the only considerable area in the county which had absolutely no access.⁶ Professing sympathy and support for their cause, the council nonetheless had other plans for the money, seizing the opportunity to attract further government subsidies to improve the harbour road joining the district north to south. In conveying the settlers' request to the Minister of Native Affairs as promised, the Kawhia County Council also divulged that the riding was one of the two most highly rated in the county, although even the Pakeha ratepayers it seems had little to show for it: '... in the winter time numbers of the European ratepayers on side roads are almost as badly off as the Taharoa natives for access.'⁷ The poor state of roads, together with the non-payment of

⁴ Engineer in chief and Under-Secretary Public Works to Under-Secretary Native Department, 17 October 1928, MA 1 497 22/1/269 part 1; DB:713

⁵ Ibid

⁶ 'Native Rates Arrears: claim from Taharoa Maoris', in Kawhia County Council minute book vol 3 opp p 67; Digital DB: Local Body Records/Otorohanga District Council

⁷ Kawhia County Council clerk to Minister Native Affairs, 19 July 1928, MA 1 497 22/1/269 part 1; DB:712

rates from Maori landowners, were given as the reason why the riding account could not afford the works that had been asked for.

Access to Taharoa 1928 - 1960



Marae Edwards also wrote to the Native Department on the community's behalf:

they are all workers and are cultivating and grazing their lands in the same manner as do the Pakehas but they are very much handicapped by the awful track over which they have to take their stock and produce out & take their stores home. This track is now really dangerous and it is a shame to think that little children have to travel over it to school & in the case of sickness you can imagine what a patient has to suffer in being carried over such a track.⁸

Edwards claimed that once the road was formed, the county council would maintain it 'and from my knowledge of the owners I know they would pay rates to keep their road in order'.⁹ When the Under-Secretary took the issue up with the Public Works Department, the earlier 1925 decision against forming a road which would not be maintained was referred to, as was the recent compromise payment: 'it might not be out of place to suggest that a small portion of this sum be allocated by the Local Body towards the cost of subsidising improvements ...'.¹⁰ Things were back to square one.

Road formation to Taharoa subsequently became part of Ngata's campaign to convince the community of the benefits of land consolidation. Ngata himself visited the settlement with the consolidation officers in May 1930. He reported that as a result of this meeting, the community agreed to a topographical survey of the area and to work with the consolidation officers to achieve 'an amicable partition' of the block which would then be endorsed by the Court.¹¹ The Taharoa partition was finalised within the year, the *Kawhia Settler* reporting that the 'main principles' of the scheme had been that:

roading and survey into suitable sections (whose areas varied in accordance with quality) should precede allocation; that residential owners should have preference in apportioning sections on which habitations or recognised substantial improvements existed; that individual interests be determined in pound sterling (and not in acreage); and that boundaries should be defined according to natural contour and with due regard to natural features.¹²

Ngata arranged a grant of £300 to have the existing track from Taharoa to Waipapa Bay reformed and metalled, the metal having to be punted across the harbour from Oparau. By August 1931 these improvements too, were deteriorating.¹³ Ngata met with the Kawhia County Council during the May visit

⁸ M Edwards to M Pomare, 13 July 1928 in above, DB:710-711

⁹ Ibid

¹⁰ Engineer in chief & Under-Secretary Public Works to Under-Secretary Native Department, 17 October 1928, in above; DB:713

¹¹ Ngata to Coates, Leader of the Opposition, 26 May 1930; MA 1 29/3/1 part 1; Hearn DB:9/110

¹² *Kawhia Settler*, 27 February 1931, in above; Hearn DB:9/106

¹³ Consolidation officer to Native Minister, 19 August 1931, MA 1 497 22/1/269 part 1; DB:719-720

to discuss road access. The details of this ‘agreement’ are not known, but the outcome was an attempt by the county engineer shortly after to lay out a possible route connecting the Taharoa settlement with the inland Whakapirau Valley Road, (as opposed to the existing harbour route), joining the settlement to the county road network.¹⁴ His efforts at the Taharoa end were opposed by local landowners, who pulled up his pegs and allegedly tore up his flags. The newspaper report of the incident portrayed the opposition in terms of long-held suspicion, which followed ‘several historical precedents’, but Jones subsequently reported that the protests had been on account of the location of the route itself:

The principal reason, I gathered, why such strong exception was taken to the survey was because of the route making serious severances of farmed land, in one case running through a cow-shed and yard, and in another case right against a dwelling house. (The owners say that judging from the position of the pegs and flags, and the observations taken by the engineer on the ground, it would be necessary to remove the tank at the back of the house to allow of the construction of the road).

The owners also say that the route could be more conveniently laid off so as not to interfere with buildings, yards and with the proper farming of the land through which it will have to go.¹⁵

Another request for access, with the outlet west to Whakapirau Valley Road, was also received by Ngata at this time.¹⁶ In reporting on the current status of proposals, Jones considered that the route proposed by locals to Whakapirau Valley Road would overcome the objections to the engineer’s surveyed route, as well as the expense of building a road through swamp.¹⁷ The two-mile ‘Taharoa (Native) Access Road’, via Whakapirau Valley Road, was included in the general road improvement scheme proposed for the district the following month, estimated to cost £4500, and listed by Public Works as ‘Awaiting Legalisation of Road’.¹⁸

Taharoa district was a major population centre: Tuteao’s figure of a farming community of 300 is backed up by the 1926 census which put the Maori population of the riding at 247, second only to the outlying Kawhia riding. By way of comparison, the proposed improvement scheme of 1931 (see 9.1.5) to give 61 existing settlers in Kawhia County all-weather access was estimated to cost £87,700.¹⁹ The Taharoa

¹⁴ *Kawhia Settler*, 16 May 1930, in MA 1 497 22/1/269 part 1; DB:714

¹⁵ Consolidation officer to Auckland registrar, 10 June 1930, in above; DB:715

¹⁶ P Toihau to Native Minister, 11 August 1931, in above; DB:718

¹⁷ Consolidation officer to Auckland registrar, 10 June 1930, in above; DB:715

¹⁸ Assistant engineer to Auckland district engineer, Public Works, 8 September 1931, BBAD 1054 2298b 15/5 part 1; DB:1595

¹⁹ *Ibid*; DB:1597

Access Road was not included in this total. The Native Department was included in the deliberations over 1931 road improvements, but nothing more came of the plans with respect to Taharoa, despite the fact that local men were described in December 1932 as being willing to work for food and little else, in order to have the road built.²⁰

10.1.2 Efforts in the 1930s...

The 1931 partition of land at Taharoa was regarded as a progressive move in the local media, which celebrated the prospect of increased productivity:

From a state of internal dissension the tribe will now settle down to develop their respective holdings – a fine people to handle a fine property. From the pakeha standpoint the solution is equally gratifying, for such a large area of undeveloped country in our midst must act as a detriment to the progress of the whole community, and has always been a direct and indirect burden on settlers and ratepayers.²¹

Local Pakeha farmer at Albatross Point, Jean Gibbons claimed that the resulting landholdings were small, and that now only three or four farmers would be able to do more than milk. Most of the dairy farmers were in the vicinity of Taharoa Lake, with the cream sledged or packed either to the cream launch on the harbour, or the cream lorry at the end of Whakapirau Valley Rd. Either way, without a road dairying was an arduous and expensive business:

Well at present, the cream is bumped by pack horse, in a number of instances to the lake, then rowed about 3 miles across and then on a lorry to either Marakopa, Hamilton or Otorohanga, consequently the grade is generally 2nd and cartage &c. a great expense and loss of time not to say anything of the wear and tear on the roads of 3 great lorries.²²

Ngati Mahuta had preferred to endure their considerable losses during the depression than to place their lands under Native Department development. Gibbons later suggested that this decision was matched by the Department's refusal to give them relief work. It is possible that the stand off could also partly account for the continuing lack of access:

these Maoris had no work as they declined to come under the Ngata Scheme and Ngata's agents here said if they could afford to stop out of the Scheme, they would get no relief work. If I could talk to you personally for an hour, I could make you understand the outlook of these people. They are a splendid type and Koroki's the

²⁰ J Gibbons to Broadfoot MP, 8 December 1932, MA 1 497 22/1/269 part 1; DB:722

²¹ *Kawhia Settler*, 27 February 1931, MA 1 29/3/1 part 1; Hearn DB:9/106

²² J Gibbons to Broadfoot MP, 8 December 1932, MA 1 497 22/1/269 part 1; DB:722

King's real tribe, and they did not want to have their land mortgaged in any way yet they now are very willing to have help under your Government as they say they know you do not want to take their land away from them but to really help them. I think they should, at least, have a road.²³

Being a ratepaying farmer herself in the area, Gibbons' motives were not entirely altruistic. Her reiterated appeal on their behalf was made to newly elected Prime Minister Savage in 1936 and prompted another chain of inquiry. Public Works recalled the opposition to the road survey of 1929 as being 'hostile to development, survey and roading', and Pei Jones was asked to report if feelings had changed. In March 1937 he reported that any expenditure on the existing track towards Te Maika would be a waste of money unless it was metalled and linked up with the road to Kinohaku, and that the two alternative routes towards Whakapirau Valley Road could not be made without raising objections from affected landowners.²⁴ The district engineer for his part reported the local preference 'probably for some sentimental reason' to stick with improving the existing route from Taharoa to the harbour. In addition to the difference of opinion over the best route, future maintenance was once again raised as an issue:

One strong feature debarring any progress in the question is that the Kawhia County Council receives no rates from these Natives, and would take little or no interest whatever in the maintenance of any road which might be formed.²⁵

The above explanation was proffered by the Under-Secretary for Public Works in response to further correspondence from both Gibbons and Ngati Mahuta representatives in March 1938, after an unsuccessful attempt to meet with the Native Minister face to face at Ngaruawahia:

There are a great many Natives who are owners here but who are now living on sustenance and relief in the Waikato and Auckland districts who say they will come back on to their land where [sic] there is a school and road, as this northern end of Taharoa is too far away from the school and the track is not safe in the winter for the one family that could go to the Taharoa School.²⁶

Tuteao Te Uira, Tuteao's son, subsequently explained to Jones that linking the existing road north to the Te Maika-Lemon Point road would overcome any opposition at Taharoa. Jones reported to the Auckland registrar Robertson, that any new formation would still need metal and constant maintenance.²⁷ In the

²³ J Gibbons to Savage, 1 June 1936, BAZQ 4958/608a 36/141; DB:1352

²⁴ Field officer to Auckland registrar, Maori Affairs, 2 March 1937, in above; DB:1356

²⁵ Engineer in chief & under secretary, Public Works to Under-Secretary Native Department, 6 September 1938, in above; DB:1362

²⁶ J Gibbons to Native Minister, 31 March 1938, in above; DB:1357

²⁷ Field officer to Auckland registrar, Maori Affairs, 12 July 1938, in above; DB:1359

meantime, acting on advice from the Kawhia County Council, Pakeha farmers at Kinohaku also approached Savage directly for financial assistance to maintain the Te Maika-Lemon Point road.

We respectfully wish to point out that we urgently require more money that [sic] the rates paid by the European settlers to maintain this road on account of the large amount of Maori non-ratepayers[,] goods and cream from about 25 Native Dairy herds which has been carted over the road for the past 10 to 15 years.

There are about 120-150 Maoris in the settlement.²⁸

The request for a grant to maintain the district road was temporarily confused by bureaucrats in Wellington as another plea for access to Taharoa itself. In any event the impasse over rates meant that nothing further was done as a result of the 1938 petitions. In 1940 Ngati Mahuta appealed to their local MP Broadfoot to lobby the Minister of Public Works on their behalf. They were prepared to donate the land for the road and to fence the land themselves.²⁹ Public Works in turn once again approached the Native Department.³⁰ Both departments considered the productivity of the land – ‘good strong country’ – justified the road, and the Public Works Department favoured the northward route towards the harbour. No provision was made for the work on the 1940 estimates, but Robertson was directed to broach the ‘question of developing the Taharoa lands ... with the Native owners with a view to our undertaking work in that locality.’³¹

10.1.3 Efforts in the 1940s...

In 1941 Jean Gibbons again picked up her pen. She had approached the council to fix two small bridges and a culvert on the Taharoa route, now no more than a rough track, to enable her and her Maori neighbours to return their flocks home from shearing at Te Maika. Gibbons claimed that the county engineer had laughed at her request: ‘... I have paid them hundreds of pounds in Rates and they have never spent one penny to help me in any way’.³² Asked to comment, the field supervisor from Te Kuiti pointed out that the Kawhia County Council had already received generous financial assistance for roads from the Native Department. If the Department was prepared to contribute towards repairing the track on behalf of the Maori owners, then the county ‘should do their share towards this road as Mrs. Gibbons has apparently paid her rates for that district.’³³ The response of the county to the Department’s subsequent

²⁸ R Neeley to Prime Minister and Minister of Native Affairs, 9 July 1938, BAZQ 4958/608a 36/141; DB:1360

²⁹ Kawhia County Council clerk to Under-Secretary Native Department, 24 November 1942, in above; DB:1373

³⁰ Engineer in chief & Under-Secretary Public Works to Under-Secretary Native Department, 21 June 1940, in above; DB:1363

³¹ Under-Secretary Native Department to Auckland registrar, 27 November 1940, in above; DB:1365

³² J Gibbons to Broadfoot MP, nd, in above; DB:1366

³³ Te Kuiti field supervisor to Auckland registrar, 20 November 1941, in above; DB:1367

approach is not on file but it is clear that the non-payment of rates continued to be the sticking point. In November 1941 the Under-Secretary again pressed the council to put the road high on the list of urgent county works and to ask Public Works for ‘their most liberal financial help’ to construct the road:

I cannot see how any lands can pay rates until access is provided, and until the land is revenue producing. And I feel sure that once road access is provided progressive settlement will follow.

The collection of rates would then become possible.³⁴

Nothing further was done. Twelve months later however, the council reiterated the call from Pakeha settlers for a Native Department grant to maintain the existing Whakapirau Valley Road, on the grounds that ‘[b]y far the greater portion of the cream and goods carried over this road is for Maori settlers’.³⁵ While locals still walked or rode the old track to the harbour, and then crossed the water to Kawhia for banking and shopping, farm produce was increasingly ferried across Taharoa Lake and carted to the nearest point of the Whakapirau Valley Road. It was claimed that the amount expended on clearing slips on this road every year far outweighed the rates received from the Pakeha ratepayers. The council was contemplating works to reduce the extent of slippage and the Department was asked for a contribution of £1000. One week later the council wrote a second letter to the Native Department, calling attention to the ‘serious difficulties under which the Maori settlers in the Taharoa Block labour owing to the treacherous condition of the road known as the Taharoa Track and the lack of any other suitable access.’³⁶ It was said that 22 families were still milking, and others ran sheep and cattle. The council stressed the need both to improve the Taharoa track to the harbour and to construct a road connecting the farming settlement with the county road network. Its own lack of action was once again attributed to the lack of rates payments from the area:

A question may possibly be asked as to why the Council does not take steps to maintain the Taharoa Track and provide funds for an access to the Lemon Point–Te Maika Road. The answer is twofold. First it is mainly a matter of construction and that could only be undertaken by raising a loan; but no loan for the benefit of a non-ratepaying area is practicable. Secondly, substantial maintenance would be required after construction but again the Council would have no funds available for such purposes because of the non-payment of Native rates.

....

³⁴ Under-Secretary Native Department to clerk, Kawhia County Council, 28 November 1941, BAZQ 4958/608a 36/14; DB:1368

³⁵ Kawhia County Council clerk to Auckland registrar, Maori Affairs, 19 November 1942, in above; DB:1369

³⁶ Kawhia County Council clerk to Under-Secretary Native Department, 24 November 1942, in above; DB:1373

My Council is of the opinion that the Natives are entitled to the benefits of improved access and would be glad to see it provided conditionally on some satisfactory arrangement being made to supply it with the necessary revenue to meet maintenance costs.³⁷

The Native Department's interest in contributing to road maintenance was circumscribed by the extent of its own development in the area. The fact that Maori were farming independently at Taharoa meant, perversely, that it had no authority to grant funds for the upkeep of the Whakapirau Valley Road. The county council was directed to take the matter up with the Public Works Department instead. Regarding access to Taharoa, the council was again advised to prioritise the work on the county's applications for Public Works estimates. 'We are anxious to see improved access provided for the Taharoa district', the county was told.

Mr. Broadfoot M.P. has been advising the Minister [of Public Works] that there are big opportunities for land settlement in this locality and I have no doubt but that the Natives there will, when the time is opportune, be agreeable to having their lands brought into the Native Department Scheme. Improved access would I am sure greatly help in bringing this about and I feel that your County would benefit if this were done.³⁸

Notwithstanding the lack of any existing development scheme in the area, by January 1943 the interest of the Department in the issue of access to Taharoa was buoyed by the visit of Native Minister Frank Langstone, who had again been pressed by the locals for a road. Significantly Campbell, Under-Secretary for Maori Affairs, considered that the cost of formation could be found by the government if all the other barriers were overcome. In terms of the Public Works Department, this meant that the route would have to be legalised before the expenditure of public money could be contemplated. Given the county council's attitude, it was considered that the cost of survey and legalisation – normally a local body concern – might be borne by the landowners themselves, with the land for the road too, provided with no compensation.³⁹ Judge Beechey, the district judge, was asked to discuss the matter with the local landowners the next time he was at Kawhia, with the prospect of laying off a roadline.

Judge Beechey crossed over to Taharoa in February 1943. According to his account, dissension over the possible route was ultimately resolved by the community decision that 'the best course to be followed was to leave it to the Engineers to decide where an access road should go, and that the access be

³⁷ Ibid

³⁸ Under-Secretary Native Department to clerk, Kawhia County Council, 14 January 1943, in above, DB:1375-76

³⁹ Under-Secretary Native Department to Auckland registrar, 29 January 1943, in above; DB:1377

accepted.⁴⁰ The judge had raised the issues of zero compensation and future rates payments at this meeting. In passing on the news to Head Office, the Auckland registrar recommended that the Department support the formation of a road linking the settlement with the Lemon Point-Te Maika Road, rather than improving the existing track to the harbour. It was suggested that the Department's surveyor combine with the county engineer and that of the Public Works Department to lay off the best route. Legalisation and survey costs could be met by the Department or Maori Land Board if need be, and recouped as a charge on the affected land. The registrar's optimism stretched even to future maintenance: if a council approach to the producing farmers at Taharoa did not result in 'some arrangement', an allocation from butterfat proceeds could be resorted to. Head Office was advised to approach Public Works to have funds set aside for the formation and metalling of the road.⁴¹

In May 1943 the Minister of Works advised that because of the war the estimated £8000 required for the road was not available, and nor were there sufficient staff to undertake the requisite engineering survey. When the Public Works surveyor made it to Taharoa that winter, the party was opposed by the same landowner who had opposed the survey of the same route in 1929. Once more the pegs were removed. The field officer who accompanied the survey party reported Inurongoa Pouaka's preference for the existing route via Waipapa Bay on the harbour, a proposition he claimed 'was out of the question as it would be a distance of approximately 8 miles against 2¼ miles via the lake route.'⁴² He also suggested the 'fanatical' opposition was motivated by personal gain, pointing out that the objector's son-in-law currently made an income from ferrying goods across Taharoa Lake. In view of the wider interests of the community, it was suggested that the court order for the road proceed over her objections. In fact, the proposed line cut Inurongoa's 40 acre property in three.⁴³ Her written objections included the incursion into cultivated areas; the severance of stock from their water supply; the interference with her milking shed and orchard, and the fact that the road would cut her off from a spring of her namesake, Inurongoa.⁴⁴ This letter was referred to the registrar in Auckland with the advice: 'If the passage of years has not cured the trouble when the time comes to lay off the road, would you please ask the surveyors to endeavour to avoid taking the line over the land in question.'⁴⁵

The application to lay off the road went ahead in September, before Judge Beechey. Four Maori landowners were there to protest against the route, including Inurongoa, who reiterated her objection to

⁴⁰ Judge Beechey to Auckland registrar, 22 February 1943, in above; DB:1379

⁴¹ Auckland registrar to Head Office, Maori Affairs, 23 February 1943, BAZQ 4958/608a 36/14; DB:1380

⁴² Field supervisor to Auckland registrar, Maori Affairs, 12 July 1943, in above; DB:1383

⁴³ See MB Mercer 35/172, 17 January 1956, extract in above; DB:1425

⁴⁴ Inurongo Pouaka, Taipua Te Uira to Native Minister, 10 July 1943, in above; DB:1386

⁴⁵ Under-Secretary Native Department to Auckland registrar, 8 September 1943, in above; DB:1387

the road cutting through her property. Taipua Te Uira, the ferryman, was milking 15 cows on his 29 acres, and also objected to the incursion of the road: 'My area is small and I want every inch of it.'⁴⁶ He too claimed that the line would interfere with his milking shed and cut off his water supply. He repudiated the suggestion that the threat to his taxi service lay behind his opposition: 'Last year I collected £80 for ferry dues. I am prepared to let anyone have the job who wants it. I don't get much out of it.' Tuteao Te Uira was also in court and he voiced the preference of all those present when he called for the route to follow the existing track towards the harbour 'This Te Maika road is the one we have always used to reach Kawhia. Kawhia is our centre and the place we want to reach.'⁴⁷ The order was made in spite of the objections.

The following month the surveyors arrived at Taharoa, accompanied by the local constable. The line was in fact taken through Inurongoa's property, the assurance of her daughters not to disrupt proceedings lasting until the surveyors reached the 'potato patch'. After three more days of obstruction, three women and a fourth landowner were arrested and taken into custody at Kawhia. Having assured the court that they would allow the survey to proceed with no further obstruction, the four were convicted and then released.⁴⁸ In turn, they seem to have obtained an assurance from the Minister of Native Affairs that the road would not proceed until their objections had been fully heard.⁴⁹ In the meantime another 16 months went by.

In February 1945 the matter was back in the Maori Land Court, again before Judge Beechey. Tom Hetet, one of the consolidation officers involved with the partition of Taharoa 16 years before, represented those opposed to the proposed roadline, and explained that the opposition was primarily based on the apprehension that if the southern road was opened, the one to Te Maika would not go ahead. From the testimony in court it was clear that the community largely preferred the traditional route towards the harbour, to link up with the coastal county road at Kinohaku. Once again Tuteao Te Uira argued 'Kawhia is our town for supplies and Maketu the place for tribal gatherings. This has been so from the time of our elders. We wish this to continue as a matter of native custom. Te Maika track has always been and is our road for access to Kawhia.'⁵⁰ Economic reasons were also proffered for the coastal route. Jean Gibbons argued that a road between Te Maika and Kinohaku would open up 2000 acres of good land for farming. After 20 years of milking without access and with heavy transport costs, dairy farmers closer to the

⁴⁶ Mercer Minute Book 29/151-153, extract in BAZQ 4958/608a 36/14; DB:1391

⁴⁷ Ibid

⁴⁸ Inspector of Police to Auckland registrar, 19 October 1943, in above; DB:1389

⁴⁹ Under-Secretary Native Department to Auckland registrar, 20 October 1943, in above; DB:1390

⁵⁰ Mercer MB 29/279 and 281-84 14 February 1945, extract in above; DB:1393

settlement of Taharoa who may have benefited from the southern access earlier on, were giving up. It was argued in court that the end of dairying meant the proposed road would be of no use. The application for the roadline was adjourned pending a further survey and report which was never taken further, the disgruntled registrar Robertson briefly recording in April 1945: 'It would seem that our efforts to provide these people with road access have come to naught.'⁵¹ When the matter was raised by Judge Beechey the following summer, Robertson was dismissive. Enough time and effort had been wasted trying to obtain access for locals who were 'not farsighted to see that if they got the first road the other would follow later.'⁵²

In January 1946 Tuteao Te Uira and others again wrote in to the Minister of Maori Affairs. While still clearly preferring the coastal route to Te Maika, the correspondents were now willing to compromise with the shorter route, as long as they got road access.

By this road we would be able to take our sick to the hospital or to the Doctor. At present particularly during the winter time we cannot do this. Secondly. A large number of inhabitants desire to build state houses on this land which is lacking a road. Thirdly. There is a very big area of land about here which is uncultivable owing to the lack of a road. There is also a large area which had been sown in grass but owing to a lack of road noxious weeds have taken command of it. Fourthly most of the milking in this area which lacks a road has ceased because the cost of transporting their cream is too heavy in that it had to be loaded on a boat, rowed across the Lake of Taharoa then handled again on to lorries at the Whakapirau Road and from there to Otorohanga to the factory. The steamer from Kawhia to Onehunga has almost ceased to run. It transports only wool.⁵³

In February the matter was back before Judge Beechey. As indicated in his letter Tuteao Te Uira had withdrawn his objection to the surveyed road, as long as access resulted. It was claimed that the death rate was unnecessarily high, particularly of young children, due to the isolation. Taipua Tuteao and Inurongoa on the other hand were still implacably opposed to anything but improving the old Te Maika track and other farmers in the northern area without access supported this option, including one who had lost a child through the lack of medical attention.⁵⁴ By this time only one farmer was still milking. The case was again adjourned. Responding to a Head Office inquiry in April 1946 the Auckland registrar attributed the lack of progress to local dispute over the route: 'It would appear that nothing can be done for these people until they compose [sic] their differences and agree to withdraw all obstruction and opposition to the route

⁵¹ Auckland registrar to Mr Bailey, 4 April 1945, BAZQ 4958/608a 36/14; DB:1395

⁵² Handwritten response to Judge Beechey, 21 February 1946 in above; DB:1396

⁵³ Translation, T Te Uira to Minister Native Affairs, 26 January 1946, in above; DB:1397

⁵⁴ Mercer MB 29/395 13 February 1946; extract in above; DB:1398

of the road considered necessary by the County Council and the Departments concerned.’⁵⁵ The matter was left at that.

10.1.4 Efforts in the 1950s...

Summer storms in 1950 cut off the settlement altogether. Gibbons reported that numerous slips on the Te Maika track had rendered it ‘beyond repair, or at least beyond what they themselves can do.’⁵⁶ Packhorses could not get past. Slips on the Whakapirau Valley Road had also closed that exit. The alternative route to Marokopa to get supplies was no longer thought to be possible ‘as so much of that country is now private property and fenced where at one time they did have a packhorse track.’ The old people against a road were now dead, Gibbons claimed, and the young generation wanted something better. ‘Cannot the Native Department do something.’⁵⁷ Her appeal was passed on to both Public Works and Maori Affairs, prompting another review. When Kawhia County Council was approached by the district engineer about maintenance, the clerk informed him that the council had no intention of opening up the track to Taharoa, but it would be prepared to sponsor an application from the community for a subsidy.⁵⁸ Repairing the track from the worst of the slips was estimated to cost £150 and in view of the fact that no rates were paid, the district engineer recommended a subsidy rather than an outright grant. The commissioner of works however took a different view, informing the Under-Secretary for Maori Affairs in June 1950 that Public Works had no funds for maintenance, particularly for works which were a local responsibility.⁵⁹

Tipi Ropiha, having taken over from Campbell as Under-Secretary in November 1948, responded to Gibbon’s letter by asking the Auckland office to report: ‘It appears to me that the roading problem can only be solved if the through road to the Te Maika-Lemon Point Road is built. The land is of considerable importance and nobody should be allowed to stop its development.’⁶⁰ Another court hearing was set down for January 1951 to legalise the road line. In the meantime Ropiha also approached the Commissioner of Works about funding construction. A revised estimate of £21,000 was prepared, a cost the district engineer considered ‘difficult to justify’ given the non-payment of rates. It was confirmed that the Kawhia County Council would not assist with construction.⁶¹ In January 1951 Judge Beechey ordered the roadline over the continued objections of those wanting the Te Maika route instead.⁶² At the hearing the county

⁵⁵ Auckland registrar to Under-Secretary Native Department, 26 April 1946, in above; DB:1399

⁵⁶ J Gibbons to Broadfoot, 14 February 1950, in above; DB:1401

⁵⁷ Ibid

⁵⁸ District engineer to Commissioner of Works, 11 May 1950, AATE 5113 A1002/434f 22/58; DB:1622

⁵⁹ Commissioner of Works to Under-Secretary Maori Affairs, 7 June 1950, in above; DB:1623

⁶⁰ Under-Secretary Maori Affairs to Auckland registrar, 2 May 1950, BAZQ 4958/608a 36/14; DB:1402

⁶¹ Engineer to Hamilton district engineer, 28 February 1951; district engineer to Commissioner of Works, 28 May 1951, AATE 5113 A1002/434f 22/58; DB:1626

⁶² Mercer MB 32/104 26 January 1951; extract in BAZQ 4958/608a 36/14; DB:1404

clerk stated that the construction and maintenance of this preferred route would be very costly in a district that provided no rates, but that access was nonetheless needed to get fertiliser in and wool and stock out. Judge Beechey and the registrar were agreed that the land required for the road should be taken under the Public Works Act and compensation provided by the Crown. In June 1951 Gibbons wrote to the *Herald* about the isolation the community was forced to live with, blaming it on the government. The response of the county clerk was reported in kind: ‘The continued isolation of Te Maika is solely the fault of some Maoris living there who have strenuously opposed the scheme to put in a new road.’⁶³ He also pointed out that of the £900 levied in rates on the land each year, only £6 was paid.

Kawhia County Council’s ongoing reluctance to form the road meant that by 1952 consideration was once again given to Maori Affairs development, at least in official circles: ‘There appear to be considerable areas at Taharoa which are suitable for development, but the people there are somewhat backward in their outlook and have no desire for Departmental assistance. The situation might be changed if road access were provided.’⁶⁴ The Court’s legalisation of the road had been appealed, and in April 1952 the appeal was adjourned on the advice that the Department was considering development.⁶⁵ It was not until August 1952 that the Department’s field supervisor made it out to Taharoa to view the prospect, and his report is a telling insight into the impact of the ongoing isolation. AC Carlson travelled to Taharoa via the Whakapirau Valley Road, crossing over the Taharoa Lake because the Te Maika track was a quagmire. Thirteen families remained at Taharoa, and what had once been grassed dairy farms had succumbed to lupins, sand drift and on the hills, second growth bush. All of the land that had once been grazed, Carlson maintained, ‘has now almost completely reverted to fern, scrub, and tall manuka.’⁶⁶ Dairying was finished and the wool clip a third of what it had been even a few years ago. Yet the field supervisor was obviously impressed:

The Maori people in this area are above average. Their standard of housing is high, as are their living conditions, when it is realized that every stick of timber and all their goods and chattels have had to be transported across Kawhia Harbour by launch and then sledged seven or eight miles to their properties. I was in most houses in the district and I would not be reluctant to take a meal or spend a night in any that I saw.

An enormous amount of work, a big part of which has now ‘gone by the board’, in clearing, grassing, fencing, draining, buildings etc, has been done over the years,

⁶³ ‘Isolated Settlers at Kawhia’, *NZ Herald*, 5 June 1951, 13 June 1951, in AATE 5113 A1002/434f 22/58; DB:1629

⁶⁴ Auckland district officer to Hamilton field supervisor, 23 January 1952, BAZQ 4958/608a 36/14; DB:1407

⁶⁵ Auckland Appellate Minute Book 12/313-4, extract in above; DB:1408

⁶⁶ Hamilton field supervisor to Auckland district officer, 25 August 1952, in above; DB:1410

but the economic conditions outside have attracted the young people away, and this shortage of labour, for scrub cutting top-dressing etc, coupled with the lack of access and probably lack of sufficient finance is slowly beating them and, under the present conditions, must eventually win.⁶⁷

In another version of the chicken and egg predicament the Taharoa community found itself in, Carlson argued that development would not be possible without access 'Even if the owners were agreeable to development, about which there is some doubt, this is neither advisable nor practicable with the present lack of access and shortage of labour.' He had found little opposition to the proposed road, the main complaint being that it did not go far enough, and his report tended to vindicate the local preference to develop the northern coastal route:

Even if the proposed access road, round the northern end of the lake to the school, was proceeded with, this would serve only a very small area and the bulk of the block would still be served only by bridle and sledge tracks and transport would still be dependent on sledges and pack-horses.⁶⁸

The report was forwarded to the Under-Secretary with the note from the Auckland district officer 'It would appear under the present financial position nothing can be done about roading or road development at Taharoa'. In September the county clerk was again approached and the same answer was forthcoming: 'He states no rates have been received from any Maori in the Taharoa area. Therefore, his council are not particularly interested.'⁶⁹

Things had taken a turn for the worse for the people of Taharoa with new Marine Department regulations from 1950 heralding the end to private launch services. In recent years the community had become even more dependent on the water traffic since the end of dairying had meant the cream lorry no longer travelled the Whakapirau Valley Road route.⁷⁰ However the trade was not considered enough to warrant the upgrade of vessels needed to meet the new regulations.⁷¹ In July 1952 T Randall and 44 other residents of Taharoa approached the Under-Secretary for Maori Affairs about the possibility of subsidising the twice-weekly launch service to Te Maika, which the operator claimed had become uneconomic.⁷² An end to the launch would cut the community off from the services of Kawhia – the mail, the district nurse, the police – and goods would have to travel four times as far. The request prompted a visit from the Maori welfare officer in September 1952 who endorsed the urgent need for a road from

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ Te Kuiti field supervisor to Auckland district officer, 24 September 1952, in above; DB:1412

⁷⁰ District engineer to Commissioner of Works, 14 July 1950, AATE 5113 A1002/434f 22/58; DB:1624

⁷¹ See for example above letter, also *Herald* report 13 June 1951 in above; DB:1629

⁷² T Randall and others to Under-Secretary Maori Affairs, 27 July 1952, BAZQ 4958/608a 36/14; DB:1409

both ends, and the continuation of the launch service to service the 26 homes in the wider district.⁷³ The response from Ropiha was to once again inquire whether any of the farmers serviced by the launch had been financed by the Department: ‘this may be a factor in deciding whether or not the Transport Department may be prepared to subsidise the launch service’.⁷⁴ In December the Maori welfare officer confirmed that an annual subsidy of £150 would be required to keep the now once-a-week service going, and that locals had assured him that ‘no Maori farmer either at Taharoa or on the Te Maika side of the Kawhia harbour had received financial assistance from the Department or the Maori Trustee.’⁷⁵ The outcome of the appeal is not known.

When Native Minister Corbett and his entourage met with the county councils of Kawhia and Raglan in April 1954 to see firsthand the fruits of his legislative handiwork, a deputation from Taharoa led by Wallace King took the opportunity to press the Minister for a road.⁷⁶ Broadfoot MP, Under-Secretary Ropiha and Robertson were all present. None of the Taharoa lands had been targeted by the Kawhia County Council under the vesting legislation of the 1950s, but King, a sheep farmer of Te Maika, had been sued for rates. At the meeting he maintained that the settlers at Taharoa would be willing to pay rates if they were given a road: the closest road to his farm was 22 miles away. Barrett, the county chairman, countered that King used the county roads and that ‘Until the rates were paid the Council did not feel it should take any action or send the Engineer out to make an inspection.’ King then clarified that the government would construct the road, and the county merely take it over. Robertson added that everything was complete – the road laid off, surveyed – and only the objections to the route stopping progress. If the county approved, it could be taken under the Public Works Act. The deputation then received support from Carlson, the development supervisor, and the riding members. Corbett too, professed sympathy and assured the deputation that their continued isolation ‘would not happen in the future. He would suggest that the County put forward a proposal and it would have his support.’⁷⁷

Despite Robertson’s pessimism that ‘the Kawhia County Council is not greatly interested in road access to Taharoa, and therefore I doubt whether it would push the matter’, the following year the council did in fact include the road in its application to the Ministry of Works for back blocks funding. The council had come up with an estimate of £60,000 for the work – based on what it is not known – and asked for an initial allocation of £10,000. In July 1955 it was told by the district engineer that there was no money

⁷³ Maori welfare officer to Auckland district officer, 16 October 1952, in above; DB:1413

⁷⁴ Under-Secretary Maori Affairs to Auckland district officer, 4 November 1952 in above; DB:1414

⁷⁵ Te Kuiti Maori welfare officer to Auckland district officer, 12 December 1952, in above; DB:1415

⁷⁶ ‘Notes of Representations...’, 7 April 1954, in above; DB:1416

⁷⁷ Ibid

available.⁷⁸ The county clerk immediately reminded Under-Secretary Ropiha of Corbett's promise to expedite the work the year before. In October 1955 Corbett wrote back. The fact that the appeal had not yet been heard was one cited obstacle. More importantly, Maori Affairs was no longer willing to fund construction on account of the lack of any Department development:

There was at one time a prospect that the Department of Maori Affairs may have been able to arrange finance for this work, but it has now been found that this cannot be done, as there are not likely to be any land development projects in the vicinity which would benefit by such a road.⁷⁹

The same news was imparted to Wallace King, with the added advice that if the roadline still stood when the appeal was heard in January, 'it will then be a matter of taking up with the Kawhia County Council the question of arranging for the actual construction of the road.'⁸⁰

The appeal against the roadline was heard by Commissioner Bell at Kawhia on 17 January 1956.⁸¹ It was attended by most of those interested, including a very aged Inurongoa, still opposed to the severance of her property. Most of the other affected landowners however agreed to the route, without compensation, and in their desperation for access some even offered to pay the compensation to those most affected. Both the county clerk and chairman attended the hearing and spoke in support of the surveyed route and the county engineer testified that the surveyed line was the best available. The fact that the district would soon be incorporated into the Waitomo County was cited by the court as an additional reason to support the surveyed route east, as opposed to the old track north to the harbour. With the funding of construction in mind, and the general utility of the road to the district, the Court considered that the road should be taken by the local authority under the Public Works Act, rather than under the jurisdiction of the court and for this reason the case was adjourned. The funding implications of this decision meant that the work would have to be funded from district roading or backblock access in the Ministry of Works Road Vote, with the onus on the local authority – now Waitomo County Council – to include the work on its annual application. The road had not been included in the schedule of district works estimated to cost £662,550 negotiated with the Ministry of Works as part of the 1956 amalgamation.

Prompted by yet another appeal from a Taharoa resident to push on with construction, in August 1956 the Waitomo County Council signalled its intention to have the road declared a public road under the Public Works Act, but little else was done.

⁷⁸ Kawhia County Council clerk to Under-Secretary Maori Affairs, 20 July 1955, BAZQ 4958/608a 36/14; DB:1421

⁷⁹ Minister Maori Affairs to clerk Kawhia County Council, 11 October 1955, in above; DB:1422

⁸⁰ Minister Maori Affairs to W King, 11 October 1955, in above; DB:1423

⁸¹ Mercer MB 35/172-218, 17 January 1956, extract in above; DB:1425

In July 1958 the people of Taharoa appealed to the Prime Minister for help. Wallace King, now a bona fide ratepayer, referred to the 30 years of effort to obtain access, to no avail. The 32 petitioners pointed out that only 2½ miles was required from the end of Whakapirau Valley Road to the Taharoa School to give the community all-weather access.⁸² The matter was referred to the Ministry of Works, the district engineer commenting that circumstances had not changed, except that the road would now be more costly to form. The Minister of Works therefore informed Nash that the matter was one for the local authority.⁸³ Prime Minister Nash, also Minister of Maori Affairs, in turn informed King that ‘as the Department of Maori Affairs has no proposals in its Maori land settlement programme for the development of the Taharoa lands, the matter of access is one for a decision by the local authority.’ He was told to approach Waitomo County Council, with the caution that ‘The provision of funds for the work depends on the degree of priority the Waitomo County Council is prepared to accord the work in its applications for assistance from the Roads Vote in any future year’.⁸⁴

In January the Taharoa school committee added its voice to the clamour for a road.⁸⁵ It was told by the Minister of Works that the matter was up to the local body, and that Waitomo County Council had not included the road in its annual application.⁸⁶ In March 1959 the county clerk informed the Department of Maori Affairs that the roadline would be gazetted shortly. He reminded the Department of past undertakings to fund construction, and the fact that only Maori land was involved: was there still a possibility that the Department could contribute to the cost? In passing on the request to Head Office, District Officer AE Edwards commented that although there had never been any departmental financial involvement, ‘[t]hey are a deserving people on their own efforts. There is also a Maori school in the area with no access’, and he suggested discussion on a ministerial level to get around the technicalities of which Vote the road would fall into.⁸⁷ The possibility of private funding as a result of commercial interest in the ironsands was also raised. The reply from the secretary was terse:

The provision of roading access to this block is clearly not the responsibility of the Department but is primarily the concern of the Kawhia County Council [sic] which should itself represent the matter to the Ministry of Works.

...

⁸² Letter cited in Commissioner of Works to Hamilton district commissioner, 18 July 1958, AATE 5113 A1002 434f 22/58; DB:1633

⁸³ Minister of Works to Prime Minister, 6 August 1958, in above; DB:1636

⁸⁴ Minister Maori Affairs to W King, 13 August 1958, BAZQ 4958/608a 36/14; DB:1437

⁸⁵ Secretary, Taharoa Maori School Committee to Prime Minister, 28 January 1959, in above; DB:1444

⁸⁶ Minister of Works to secretary Taharoa Settlers’ Association, 24 February 1959, in above; DB:1443

⁸⁷ Auckland district officer to Secretary Maori Affairs, 14 April 1959, in above; DB:1439

In the circumstances no real purpose would be served by discussing the matter at Ministerial level between the Minister of Maori Affairs and the Minister of Works.⁸⁸

Advised by the county council of the Department's decision, and the fact that its annual allocation of £8000 was committed for at least the next two years, in May 1959 the Taharoa community tried again. By now the community had formed the Taharoa Settlers' Association, with the express aim to obtain road access. The Minister of Maori Affairs Walter Nash was asked to intervene with a special vote for the road.⁸⁹ In response, the Department's position was set out in a little more detail:

The position is that certain funds are made available to my Department for roading purposes by Parliament each year, but the whole of such money is required for the construction of roads to give access to Maori owned lands in the course of development by the Department of Maori Affairs and settlement by Maori farmers under the provisions of the Maori Affairs Act 1953 and under the supervision of the Department.

I admire your independence of spirit in building your own homes and developing your land notwithstanding the obstacle of lack of road access. It is regretted, however, that as funds for the current year for roading are fully committed for Maori land under development, it will not be possible to offer you any assistance at present.⁹⁰

The community was not impressed with the policy, to say the least.

We feel this is very, very wrong indeed. For over 50 years our families have farmed the Taharoa Block, capably, and with a good financial return. We have developed our farms as far as possible without the asset of road access. Now that we have reached financial security, have fine homes, we find that we have no need or wish to come under the Maori Affairs Development Scheme.

Last month, June, two young babies died, both these babies would be alive today if it had been possible to obtain a doctor or to take them to a doctor or hospital. Over the years it is possible that many of our people would have lived had road access been available. We wish to point out again that we are cut off from the road by a long narrow lake. A lake bordered by swamps and steep hills at one end and vast iron sands at the other. It is the three miles of roading around the western end of the lake which we are fighting for.⁹¹

⁸⁸ Secretary Maori Affairs to Auckland district officer, 23 April 1959, in above, DB:1440

⁸⁹ Secretary, Taharoa Settlers' Association to Minister Maori Affairs, 23 May 1959, in above, DB:1441

⁹⁰ Minister Maori Affairs to secretary Taharoa Settlers' Association, 25 June 1959, in above; DB:1442

⁹¹ Secretary Taharoa Settlers' Association to Minister Maori Affairs, 14 July 1959, in above; DB:1445

Waitomo County Council in fact had no intention of including the road in its annual applications. Carlson, the field supervisor for Maori Affairs was told that the county's annual allocation for back blocks access was around £1000, and the council's walkover estimate for the road was £60,000. In view of the fact that 'very few' of the landowners at Taharoa paid rates, 'to expect this county to build the road under these conditions was grotesque.'⁹² It would only do so if the whole cost of the road was provided by a special government grant.

Another department officer was despatched to Taharoa in September 1959 to explain things face to face. He returned convinced that the claims of the community were fully merited and justified. 'My visit and discussion with them provided the opportunity for observation and application of their difficulties that are not readily apparent to others who enjoy the advantages of public services and amenities.'⁹³ He also reported the dire need to have the Taharoa track bulldozed, a £300 project to which the community were willing to contribute. Nash approached the Ministry of Works about funding the project, but the most it was willing to concede was the use of the bulldozer when it was in the area for school improvements. In February 1960 Nash grudgingly approved of a government pound for pound subsidy of up to £200 to pay for the work.⁹⁴

By April 1960 the field supervisor reported that the levelling was all but finished. A sum of £200 had been allocated on the Roads Vote - back blocks to pay for the work, and the community was wanting to take advantage of the Maori Affairs Department's subsidy offer to continue bulldozing the roadline towards Whakapirau Valley Road. Incredibly, the assistant secretary refused. In view of the Ministry of Works grant, the Maori Affairs offer was rescinded: 'The settlers request that the proposed Civil List grant to utilized for making a stock track to the Whakapirau Road cannot be acceded to as the proposal is not considered a proper one for the use of Section 106 moneys.'⁹⁵

According to Ministry of Works records, the road was included on the county's estimates for three years from 1959, but it was not prioritised and was deferred as a result. By July 1962 the engineering survey of the road was completed, the estimated cost now £45,760. The council also paid for the legalisation and compensation. Local MP DC Seath was asked to approach both the Minister of Maori Affairs and Works to obtain a special grant to form the road. No mention was made on this occasion of unpaid rates, the council merely pointing out the Kawhia South riding funds were fully committed.⁹⁶ About 40 per cent of

⁹² Hamilton field supervisor to Auckland district officer, 11 August 1959, BAZQ 4958/608a 36/14; DB:1447

⁹³ Te Kuiti resident officer to Auckland district officer, 8 September 1959, in above; DB:1449

⁹⁴ Minister Maori Affairs to secretary Taharoa Settlers' Association, 23 February 1960, in above, DB:1454

⁹⁵ Assistant secretary Maori Affairs to Auckland district officer, 16 May 1960, in above; DB:1458

⁹⁶ Waitomo County Council clerk to DC Seath MP, 31 July 1962, AATE 5113 A1002 434f 22/58; DB:1637

the rates levied on Taharoa lands were being paid by this time.⁹⁷ In September 1962 the Minister of Works replied that if the council prioritised the work over all other county works until it was completed, ‘every consideration will be given to this work in relation to the overall availability of funds in the Roads Vote and also to roading commitments which have already been accepted.’⁹⁸

In May 1964 the chairman of Waitomo County Council, JM Somerville, and the Kawhia South riding member personally called on the Minister of Works in Wellington to press for the grant. As a result, the resident engineer was requested to review the estimate based on minimum road standards. The cost was subsequently reduced to £29,120 on this basis. In his recommendation of June 1964, the district commissioner of Works suggested that the county council and landowners together find £3300 to meet fencing and other costs, with the balance of £25,220 to come from the Roads Vote. Waitomo County Council was eventually offered a free grant of £20,000, to be spent over two or more years, the council to come up with the balance.⁹⁹ This was accepted by the council in November 1964. With the earthworks complete by October 1966, the council again approached the MP to ask for a further grant. It was pointed out that the road was a back blocks one, which normally attracted a £6 to £1 subsidy, and ‘as only Maori Land is concerned my Council considers that the subsidy rate should be even more generous, and, if possible, on a free basis especially in view of the fact that the Council has to find the whole of the fencing costs which really should be a charge against the job.’¹⁰⁰ In December the Minister of Works agreed to a further grant of £6000.

The road reached Taharoa school in February 1968.¹⁰¹

10.2 Rates for roads, roads for rates

On the face of it, the tragedy of Taharoa’s 43-year campaign for road access illustrates the relationship between rates payment and service. The early government road, laid out to provide the district with access to the harbour and to the services and amenities of Kawhia town across the water was not maintained by the county council because the landowners of Taharoa did not pay rates. Their resistance to do so was in turn fuelled by decades of council neglect. For both sides, the resulting impasse – what La Rooij has referred to in the Tauranga Moana Inquiry as ‘a dismal symmetry’ – had grim consequences. To stop at this level of interpretation however, ignores the underlying structural forces denying Maori equal opportunity in the new order.

⁹⁷ ‘Valuation and Rates – Taharoa Block’, 22 May 1964, in above; DB:1642

⁹⁸ Minister of Works to DC Seath, 24 September 1962, in above; DB:1640

⁹⁹ Minister of Works to DC Seath MP, 2 November 1964, in above; DB:1647

¹⁰⁰ Waitomo County Clerk to Seath MP, 11 October 1966, in above; DB:1651

¹⁰¹ ‘Outside World At Last Reaches Lake Taharoa’, *NZ Herald*, 6 February 1968, in above; DB:1655

Ngati Mahuta were not alone in not paying rates. For most of the Kawhia County Council's existence the default from Maori land was a blanket one, the first rates payments milked from Maori dairy farmers on Maori Affairs development units from the late 1930s on. Until 1950 these small, coerced contributions remained an anomaly, not the rule. As set out in this report, the reasons behind non-payment were a political, economic and administrative mix, wrought by the imposition of a system designed for individual ownership of accessible, potentially productive land parcels. As late as 1950 the Kawhia County Council chairman attributed the non-payment of rates to political forces, telling Minister of Maori Affairs Ernest Corbett: 'The Maories are of a very different type and are quite unwilling to co-operate with Europeans. As mentioned earlier this is a reflection of the history of the King movement.'¹⁰² Ngati Mahuta were closely affiliated with the Kingitanga, described by Gibbons as 'Koroki's the King's real tribe'. These factors must be kept in mind when considering the 'no rates, no service' argument used against the people of Taharoa, including the council's own culpability for the situation. It is not clear, for example, whether rates were even demanded until the 1940s. Until the partition of 1931 the multiply-owned and occupied tribal lands at Taharoa would have posed all of the same problems surrounding liability: in the Taharoa riding valuation roll of 1913 for example, Taharoa A was divided seven ways, two of these, A4 and A5 being small areas with 'sole owners', and the remaining 15,560 acres in just five blocks with five nominated Maori occupiers.¹⁰³ Even after partition the county council itself admitted that its rolls with respect to Maori tenure were incomplete. Its inability to satisfy the Court that demands had been served was one reason why Kawhia County Council did not pursue charging orders as late as 1940.¹⁰⁴ Over and above these basic administrative procedures was the gazetted exemption of Maori land from rates within the Kawhia County which prevailed until 1944. It was not until 1948 it seems, that the council belatedly tried 'talking' the landowners at Taharoa into paying rates, face to face. As set out in Chapter 5 this was backed up with the resolution that if they did so, the council would 'take steps at once to have a road completed as soon as possible...'¹⁰⁵

What set the people of Taharoa apart of course, was their early engagement in farming, wholly independent of government assistance. What might have been celebrated by both central and local government as a model of modern Maori enterprise and endeavour – 'a fine people to handle a fine property' – in fact stuck in the craw of local body politicians. The fact that Taharoa farmers could *afford* to pay rates, and still didn't, was the source of ongoing bitterness, particularly in a local body district

¹⁰² 'County of Kawhia', March 1950, 233033 Maori land, Otorohanga DC; DB:1734

¹⁰³ Kawhia County valuation roll 1913, 233312, Otorohanga DC; Digital DB: Local Body Records/Otorohanga DC

¹⁰⁴ Corbett Mossman & Low to Kawhia County Council, 25 May 1940, 233033 Maori land, Otorohanga DC; DB:1697

¹⁰⁵ 10 November 1948, Kawhia County Council Minute book vol4; Digital DB:Local Body Records/Otorohanga DC

already under stress. A generation on, the chairman of Kawhia County Council still spoke of the ire of county ratepayers ‘who find their Maori neighbours, even when, as in some cases, they are making a good living from their farms, refusing absolutely to contribute in any way towards the construction and maintenance of roads which they freely use.’¹⁰⁶ The tribe’s successful pastoral endeavour carried with it the expectation of wholesale compliance with the local government paradigm.

Or did it? It is very clear that the council was reluctant to accord Maori landowners the political rights associated with paying rates. In 1944 it opposed the introduction of the single residential vote in light of the political influence the measure would accord Maori in the district, its opinion made explicit to both the Minister of Maori Affairs and the Parliamentary select committee that: ‘Maoris are totally unfitted for and actually incapable of administering the affairs of a County.’¹⁰⁷ It is ironic that one of the feared consequences of this new franchise would be the provision of access to Maori lands.

While the expectation from Pakeha was that productive Maori farmers would pay, the failure to spend the 1928 Maori rates compromise on access for the Taharoa settlers seems inarguable proof that Maori were not to be considered full members of the rate-paying fraternity. The neglect the Taharoa community suffered at the hands of the county council was not unusual – none of the Maori communities around the harbour were serviced by county roads unless they happened to be en route to a ratepaying farmer. Local government was designed to meet the needs of ratepayers, not communities. And while this may fall back into the same chicken and egg argument, it is inconceivable that a Pakeha farming settlement of the scale of Taharoa would have been treated so shabbily.

The whole point of course is that the local government system was not designed with Maori interests in mind. The fact that their interests needed protecting from the system was reflected over time in the growing intermediary role the Maori Affairs Department assumed with regard to Maori land development. The basis of the Maori Roads Vote from the late 1940s was to form access to Maori land otherwise neglected by local government. While the Department ultimately ensured rates were paid, the flipside was that it also endeavoured to ensure service was provided. Having developed their land outside the scope of Maori Affairs, the Taharoa community had no such intermediary to protect their interests. Ngata and his consolidation team provided such an opportunity in 1929, but the moment was lost,

¹⁰⁶ Kawhia County Council clerk to secretary NZ Counties Association, 15 December 1949, 233033 Maori land, Otorohanga DC; DB:1730

¹⁰⁷ Kawhia County Council chairman, ‘Evidence Submitted to Parliamentary Select Committee...’, 3 March 1945; also chairman to Minister Maori Affairs, 25 October 1944, in above; DB:1712; 1719-20

possibly because of Ngati Mahuta's steadfast refusal to consider development along departmental lines. They proved too independent for their own good.

The result of being left to the unmitigated devices of the local government system was the impasse over rates and the slow stagnation of their labours. The sorriest part of the whole business was that had the 1928 Maori rates compromise been spent on the Taharoa Track there is a high probability, given the evident pride and satisfaction they took in their achievements, that the settlers of Taharoa district would have taken responsibility for the future maintenance of 'their' road. Marae Edwards thought as much in 1929, a position that Wallace King echoed in 1954. In 1947 Under-Secretary for Maori Affairs Shepherd assured his colleague in Public Works that 'where roading is provided Maori rates are not a problem' and that 'with the provision of access and the development of the land this problem would cease to exist.'¹⁰⁸ With regard to roads serving the Department's development schemes, in February 1948 Shepherd went as far as suggesting to the Minister of Maori Affairs that the Department should temporarily meet maintenance costs on behalf of the Maori occupiers until the lands were sufficiently producing.¹⁰⁹ Every single Maori Affairs officer who ventured into Taharoa came away convinced of the merits of providing the community with access. Why did not the government respond?

Some 15 years after the initial request for help, Maori Affairs did promise to fund the work. The opposition of residents to the proposed route was portrayed as resistance to progress and became the received explanation for ongoing delay. In 1950 the Kawhia County Council chairman told Corbett that the district had no access because 'a group of the older Maoris themselves will not have a road for fear of inviting European infiltration.' After 25 years of council neglect he had the audacity to claim that this opposition was the reason for the exodus out to find work, the end of dairying, and the reversion of farmland. This received version of events was repeated in government publications like *Te Ao Hou*, which similarly attributed tribal resistance to the 'inroads of the European' to their continued isolation: 'the government, in spite of much effort, was never quite able to persuade the people to have a road built to their settlement...'¹¹⁰ This is patently untrue. By the 1960s the preferred Taharoa track was said to be worn so deep as to conceal both rider and mount.¹¹¹ All the community ever wanted was the original legal road to Kawhia improved for wheeled traffic. Once again, their mistake in 1943 was to insist on it.

¹⁰⁸ Under-Secretary Maori Affairs to Under-Secretary Public Works, 18 December 1947, AAMK 869 W3074 737B 22/1 part 1; DB:1146

¹⁰⁹ Under-Secretary Maori Affairs to Minister Maori Affairs, 6 February 1948, in above; DB:1151

¹¹⁰ 'The Ironsands of Taharoa', *Te Ao Hou*, no.25, December 1958 online at <http://teaohou.natlib.govt.nz>

¹¹¹ *NZ Herald*, 6 February 1968, AATE 5113 A1002/434f 22/58; DB:1655

Ultimately, the story of Taharoa must be viewed against the backdrop of decades of discourse about unproductive Maori land that was the defining feature of local government issues in Te Rohe Potae since its inception. Local newspapers and local MPs continued to repeat the received generalisation that in the King Country ‘no one can claim that the Maori is a farmer’, as the Maori farmers of Taharoa continued to bump their cream cans over pack tracks to the nearest road. It is also the case that Ngati Mahuta’s move into farming coincided with the growing government rhetoric that the development of Maori land held the answer to both rates payments and Maori well-being. Two decades later, the Under-Secretary for Maori Affairs argued for an allocation for road formation to service Maori land on the same principles:

the policy for land development is determined by the sociological and economic necessity for urgent integration of the Maori into the national life of New Zealand on the basis of equal opportunity and responsibility with the pakeha. Of necessity the land must be used where available to the owners. Any immediate financial cost to the State would be more than offset by the ultimate gain to the nation, as a whole, and to restrict the development of such land because it is unable to bear the cost of providing access would to my mind be a very short sighted policy indeed.¹¹²

Yet the Government’s concern for Maori well-being seemed to extend only as far as its own economic investment in the development of their land. There is something profoundly disturbing about the Government’s lack of intervention to provide this independently-minded and resourceful community with the basic infrastructure to flourish. Did Taharoa in fact pose the threat of a good example?

¹¹² Under-Secretary Maori Affairs to secretary Treasury, 28 June 1946, AAMK 869 W3074 737B 22/1 part 1; DB:1132

Conclusions

Arthur Ormsby was the product of an early Maori-Pakeha union in Te Rohe Potae, brought up on the Maori side of the aukati. He was present in Kawhia in 1903 when local government was first mooted with Premier Seddon. Farming at the time at Te Rauamoia, he supported the move towards county status and the progress local government would bring. Just four years on, a disillusioned Ormsby posited the local government issues of rating, road access, and of noxious weeds within the wider framework of settlement, and found the government damnably lacking:

The failure of successive Governments, since 1840, to improve the condition of the Maori is anything but a creditable record. From being an industrious, brave, and resourceful people, they are reduced to an aimless and hopeless rabble. An aboriginal race of the first order has been sacrificed to the lust of plunder. The hand of brotherly-love is never extended to help the simple Maori to keep his place in the strenuous march of civilisation; on the contrary, the pace is being unduly forced for him, so that he may fall by the way and his place be taken by another. His land gone, his undoing is accomplished - the Native Land Difficulty will be settled - but perpetual memories of rapacity will remain as 'black blots' on the title deeds of the Pakeha to this fair land.¹

The local government system enacted in 1876 provided for the development and maintenance of local infrastructure from the imposition of a tax on land. In exchange for these locally raised rates, it placed the power to make and maintain local roads, collect and determine expenditure, guide development, control natural resources and regulate local affairs into the hands of ratepayers, on the principle that those who contributed most had the most say. The system was founded on the productive utilisation of private land, whether through the exploitation of existing resources, like timber extraction, or the transformation of the existing environment into productive farming units. It was also founded on a complementary blend of private and public capitalism, which in turn was grounded on the saleability of land. Capital was required both to 'improve' new territory into farmland and to construct the roads that would facilitate farm operations. The improvements wrought by both would be reflected in rising land values, realised when the land was ultimately traded at market value. Settlement on this basis promised individual, local and national well-being and prosperity. Was it ever intended by the Crown that Maori of Te Rohe Potae were to share in this prosperity?

¹ 'Government Dealings with Maori Lands: From a Maori Point of View', *King Country Chronicle*, 7 June 1907; DB:2752-53

It is clear that the system was designed for Pakeha settlement, and implemented only when the extent of such settlement warranted it. Quite apart from the formal meeting procedures and majority-vote decision-making of elected individuals, in the formative years the limited rating liability over Maori land in a system based on the participation of ratepayers precluded a place for tangata whenua. Where Pakeha settlement was minimal, such as West Taupo County, the system remained suspended altogether. Furthermore, the amalgamation of Maori into the local government system from 1882 was only ever in terms of rating liability. The extension of this liability over the next 35 years to encompass all Maori freehold land was ill-fitted to the Maori reality of communal tenure. Subsequent attempts to marry the Eurocentric model to communal tenure were primarily directed at the issue of rates collection with no regard to ensuring participation in local affairs by interested Maori landowners. Inaccurate rolls and rates undemanded were symptomatic of local body estrangement from the outset. By 1924 any pretence at involving liable occupiers of multiply-owned Maori land was given up altogether. The incidence of occupiers listed in county rates books as simply 'Maoris' has endured until modern times.

The quest to make Maori land bear the cost of settlement was not abandoned. This report has identified the very close relationship between the local government system and the Crown's land policy. Te Rohe Potae was not the Crown's first experience of colonisation. The statutorily-enforced monopoly right of purchase followed an earlier precedent enshrined in the Treaty itself: that the requirements of settlement were to be met from the land. In many respects the Crown settlement of the King Country repeated past patterns, with the government roads to the Crown enclaves constructed out of profits made from the cheap purchase of Maori land, and its on-sale to Pakeha for considerably more. Despite the benefit of experience however, the Crown settlement of the district comes across as a haphazard affair, devoid of any overarching plan or principle, with lamentable results for Maori and Pakeha alike.

In 'opening up' the district, a number of Crown decisions placed Maori on the back foot with respect to local government immediately. The blanket rating liability over Maori freehold land that coincided with county status in 1905 was in breach of earlier government pledges made in the negotiations of the mid-1880s, that unproductive, unleased and unsold lands would not be rated. The denial of a market price, the inability to freely deal with their lands, and the failure to extend State development finance, were all State-induced barriers preventing Maori from raising the capital required to enter the new pastoral economy. To these can be added the failure of the Crown to support existing tribal governing structures that may have facilitated kin-based development. Significantly, whereas the new recipients of a Crown title could expect access to their land as part of the purchase price, no such provision was extended to the

incumbent landowners who had accepted low prices in the interests of settlement. On the contrary, the evidence suggests Crown reluctance to build roads *through* Maori land to access Pakeha properties, let alone *to* Maori lands. Rather than incorporating Maori into the framework of the new order then, and extending to them the means with which to benefit from development, the local government system instead turned their asset to liability, an ‘incubus’ as Broadfoot put it, to further Pakeha settlement.

And so began the inordinate pressure exerted by the system itself – dependent on a widespread rating base – to transfer the remaining Maori lands into private Pakeha hands. In addition to Crown purchase as a means to ‘solve’ the ‘Native Rating Problem’, Te Rohe Potae underwent two such major, Parliamentary-sanctioned transfers: the forced vesting of the Native Land Settlement Act 1907, enabling vested lands to be either leased or sold by the Maori Land Board; and the ‘compulsory dispossession’ (in Prime Minister Fraser’s words), under the ‘unproductive land’ provisions of the 1950s, enabling the Maori Trustee as agent for the owners to similarly lease or sell vested Maori land. In the latter case, the legislation was enacted specifically to meet the circumstances of Te Rohe Potae after 30 years of local government lobbying. Ngata’s consolidation and land development schemes from the late 1920s onwards can also be seen to have been driven in large part to assuage the pressure from local government about the non-payment of rates from Maori land. The fact that the success of the local government system was inversely proportional to the extent of Maori land – compare the experience of Waipa with Kawhia for example – speaks volumes about the interests that it served.

Within Te Rohe Potae, the agreement to open the district to Pakeha settlement was further contingent on the Crown’s word that unutilised, unleased and unsold Maori land would not be rated, a promise that held good for two decades. In these negotiations of the mid-1880s Maori concern about rating was posited in terms of the guarantees of the Treaty of Waitangi, and the Crown’s assurances as a result in turn became the political basis for Maori resistance to the blanket liability over Maori freehold land imposed by the Native Rating Act 1904, triggered by the gazettal of Kawhia and Waitomo Counties the following year. The 1928 concession by Ngati Maniapoto to pay future rates was similarly founded on the stipulation that utilised lands should be rated at half of the unimproved value, and that unproductive lands should not be rated at all. Again, in 1950 it was accepted by the tribal representatives at Te Kuiti that those areas of land in production and capable of paying, should pay rates. On the other hand, land not in production or incapable of production should be exempt. It seems clear that from the outset, the objection from tangata whenua in Te Rohe Potae has not been to rating *per se*, but to the blanket imposition of the tax without tribal sanction, over land from which there was no means to pay, and for lands which received nothing in the way of service.

None of these issues were new. The parliamentary debate over the rating liability of Maori land endured for 30 years. It is also clear that despite Parliament's assertion of full liability by 1910, this was tempered by its reluctance to give local government effective means to enforce the liability. For the first half of the twentieth century the government posited itself as an arbiter between the opposing forces of local government and Maori: on the one hand insisting to local government that all Maori land was liable and exhorting them to use the available provisions to collect rates, and on the other, ensuring that the ultimate enforcement of forced sale for unpaid rates was never implemented, on the grounds that to do so would be grossly unjust.

Such a stance was dishonest and a disservice to both Maori and Pakeha in local communities. To assume the role of defender of Maori rights is in and of itself an admission that the local government system as devised did not reflect the interests of the Maori constituency within any local government district. It overlooks the reality that local government was the creation of Parliament, defined and confined to operate within the guidelines set down by statute. It is also dishonest in view of the ongoing statutory liability of all Maori freehold land. If indeed it was, in Native Minister Herries' words, 'contrary to the universal policy of all New Zealand Governments to allow Native Land to be sold for non-payment of rates or to be so charged with liens as to destroy the equity of redemption, and thus render a native landless without giving him a chance of occupying the land and getting enough out of it to pay the rates', why was such Maori land even liable?

Consolidation was at least an attempt on the part of the government to remedy the utter breakdown in applying the local government system to Maori land. Not through adapting the Eurocentric model to Maori realities, but by providing Maori with a leg-up in terms of tradeable titles and development finance to participate in the pastoral economy. The classification of Maori land for rating purposes, based on the principle that it was unjust to demand rates from unproductive land and land incapable of production, was an integral part of consolidation. Classification reflected Maori expectations and was accepted and promulgated by local bodies of Te Rohe Potae, as long as government reimbursement was attached. And although Native Minister after Native Minister acknowledged and even promoted the justice of this stance, the potentially just solution of classification came undone by the Crown's refusal to accept the financial implications of doing so.

It is clear however that the rationalisation of titles and the State-controlled development of Maori land from the 1930s were also motivated by the imperative to transform Maori tenure into more amenable

ratepaying entities. Large-scale development schemes were not well received in Te Rohe Potae, many Maori communities voicing instead their preference for small-scale capital finance to improve subsistence farming operations without mortgaging the land. Both measures, as implemented by government, fell short of producing the promised rates outcome: initial work on title consolidation gave way to implementing land development schemes and eventually abandoned altogether, and rates from the latter were withheld by Treasury-inspired strictures until each unit showed an operating profit. By the 1940s the promise held out by consolidation to both Maori and local government had proved illusory.

Notwithstanding the rhetoric regarding the need to incorporate Maori in the general fabric of New Zealand society on the basis of equal opportunity and responsibility, Maori communities within Te Rohe Potae remained non-ratepaying pariahs in the eyes of local government. Government support was extended to prop up the local government infrastructure providing access to ratepaying farmers, in the way of Public Works subsidies and grants. Ironically, local government in the King Country was said to have been generously treated on account of the large extent of Crown and Maori land. Government support was also increasingly extended to ensure government-sponsored land development was provided with the necessary access, in the way of allocated road funding for development schemes. Falling through the gaps were Maori farmers and communities attempting to participate in the pastoral economy independently, to whom were not extended the means of securing the necessary road access to facilitate their farming operations. The neglect of both central and local government proved to be yet another barrier to economic development, leading instead to increasing marginalisation.

Ultimately the failure of the Crown to ensure a place for Maori in the settlement of Te Rohe Potae, together with its persistence with a local government system which depended on revenue from their estate, led to the legislation of the 1950s. Propelled by pressure from local bodies frustrated with 15 years of government inaction, and at least partly invoked to force the issue of rates payment on a stubbornly autonomous people, the forced vesting provisions targeting the remaining acres of Maori land were fundamentally a means of transferring the asset of an impoverished people into the private hands of those with the financial capital to create wealth from it. This 'use it or lose it' philosophy ignored the culpability of central and local government for the economic and social marginalisation of the tangata whenua proprietors in the first place, illustrated most poignantly by the inclusion of occupied lands under subsistence farming, and formerly farmed lands abandoned through the lack of access.

By its own admission, inviting private capital to share in the spoils of 'unproductive' Maori land was the fall-back position of the Crown's own inability to invest in sufficient land development. This conclusion

however was based on the cumbersome, large-scale development model used by the Maori Affairs Department from the 1930s. It was not based on Maori wants or needs. Making room for Maori success need not have been expensive: the £900 estimated in 1926 to build access to Taharoa was in hand in 1928, what was lacking – as a result of a wholly inappropriate local government system – was the mechanism to ensure that the Maori rates compromise was spent on Maori interests. And it need not have involved the overarching control of a government department. Ultimately, the underlying self-interest driving the local government system was its own undoing. The farming at Taharoa and that of other communities around the Kawhia and Aotea harbours – and probably throughout Te Rohe Potae – belie local body rhetoric of idleness and burdens. It was the local government system – a creature of the Crown’s own making – that rendered years of hard work and effort so.

In 1927 the King Country’s lord of local affairs, Walter Broadfoot, argued that the ‘domestic necessity’ of settlement should take precedence over the sovereign treaty made at Waitangi. In essence, he argued that the abrogation of Maori land and Maori resources was justified by the needs of Pakeha settlement, with the caveat that any such abrogation be assessable in compensation. In the end, the history of local government in Te Rohe Potae, and its impact on tangata whenua, suggests that Broadfoot was not alone. Pakeha settlement has been at the expense of Maori, aided and abetted by a local government system that has placed unrelenting pressure on Maori land to finance the venture, while denying to Maori the fruits of participation in the new order.

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Box 120

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58/01/7	Maori Land Rating
66/8	Native Lands
71/1	Petitions
74/3	Quarry Reserves – Te Maika
75/5	Rates Native
75/1/8	Rates court cases
	Rates Written off
	Old Loans: Mangateka, Maraetaua, Mangaiti, Mangatea, Mokauiti, Mokauiti no.2, Mokauiti no.3
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Appendix 1: Project Brief

The direction commissioning the research report ‘Local Government and the Hapū and Iwi of the Rohe Pōtae District’ includes the following research topics:

- The extent to which the Crown provided for Māori participation in the legislative and regulatory framework established and maintained for local government in the district;
- The powers and responsibilities the Crown delegated through Acts of Parliament and other mechanisms to local authorities within the inquiry district;
- The extent to which the Crown provided for separate forms of Māori local self government in the inquiry district such as Māori Councils;
- The forms of representation and control of local authorities the Crown provided;
- Sources of funding and powers to levy rates charges etc provided by the Crown for funding local authorities, how these were implemented and impacts on hapū and iwi;
- Other rating issues including takings of Māori lands for non-payment of rates by local authorities;
- The services provided by local authorities in the district and impacts for hapū and iwi;
- The interaction between local government and any forms of local Māori authority, such as komiti;
- Any evidence of Māori concern or complaints to the Crown about the system of local government in the district as it was established and implemented and Crown responses to such complaints;
- Local government bodies’ implementation of town planning and zoning responsibilities in the district and of environmental management; and
- Local government bodies’ exercise of powers and responsibilities in relation to Māori land eg any authorities that local government might have had to amend Māori Land Court orders and plans.

In the associated project brief, research was to focus on the systems of local government implemented in the inquiry district based on legislative authority and delegation of powers from the Crown and the impacts of these systems on hapū and iwi. This was to include:

- The major Acts of Parliament under which the Crown established various forms of local government in the inquiry district, the major local authority districts created and the major functions delegated to local authority control
- The extent to which the Crown provided for Māori participation in the legislative and regulatory framework established and maintained for local government in the district
- The powers and responsibilities the Crown delegated through Acts of Parliament and other mechanisms to local authorities within the inquiry district to carry out the functions delegated to them and the impacts of the exercise of these powers and responsibilities on hapū and iwi
- The forms of representation and control of local authorities the Crown provided, including for example forms of election, entitlement to vote and stand as members, the boards, advisory boards, councils or other forms of authority created
- Sources of funding and powers to levy rates and other charges provided by the Crown for funding local authorities, how these were implemented and the resulting effects on hapū and iwi, for example issues of compulsory vesting of land in order to gain rates payments and any relationship between rates and pressure to alienate Māori land
- The services provided by local authorities in the district and their adequacy for and impacts on hapū and iwi
- The extent to which the Crown provided for separate forms of Māori local self-government in the inquiry district, such as Māori Councils
- The interaction between local government and any forms of local Māori authority, such as komiti. It may be useful to compare consultation with tangata whenua with interactions between local government bodies and non-Māori interest groups
- Any evidence of Māori concern or complaints to the Crown about the systems of local government in the district as they were established and implemented and any evidence of Crown policies or actions in response to complaints from Māori
- Ways in which decisions were made about the provision of infrastructure such as roads at the local government level. The relationship, if any, between ideas about land productivity, and particularly the productivity of Māori land, to decisions about the development of infrastructure at the local government level.
- Rating issues, including rating valuations and land utilisation, rating of landlocked and other lands difficult to utilise and the extent and circumstances of takings of Māori lands for non-payment of rates by local authorities

- Local government bodies' implementation of their responsibilities for environmental management
- Local government bodies' implementation of their town planning and zoning responsibilities in the district. For example, what effect did the Town and Country Planning Act 1953 have on Māori communities in the Te Rohe Pōtae and their ability to continue to use and inhabit their marae?
- Local government bodies' implementation of their responsibilities for the provision of roading and other infrastructure. For example, the effect of paper roads and their administration on Māori landowners
- Local government bodies' implementation of their powers and responsibilities in relation to Māori land, for example any authorities that local government might have had to amend Māori Land Court orders and plans

Appendix 2: Local Body Vesting Applications, 1950-

The following schedules comprise applications that were made to the Maori Land Court by the local bodies of Te Rohe Potae under Part 3/Maori Purposes Act 1950 and Part 25/Maori Affairs Act 1953, namely:

- Kawhia County Council
- Raglan County Council
- Waitomo County Council
- Otorohanga County Council
- Taumarunui County Council
- Waipa County Council

In addition to the applications of these six local bodies, two private applications were made under the legislation that have not been included. The information in the 'evidence in court/outcome column' is primarily based on court minutes, which has been supplemented by local body records and government archives. There are a number of blocks that were subject to application for example, that could not be found in the minutes. With regard to Kawhia County Council applications, the evidence appearing in italics is based on the minutes taken by the council's counsel, Swarbrick & Swarbrick. The Kawhia County schedule also has an additional column 'ultimate outcome', drawn from information from government archives helpfully supplied by Heather Bassett as part of her research project into the Maori Trustee's administration of Maori lands. This was included to provide an insight into the impact of the vesting legislation, and should be taken as an indicative presentation, rather than the definitive conclusion that Bassett and Kay's report will provide.

I have endeavoured to restrict the schedule to applications for blocks that fall within the Inquiry District. The exceptions are those Ohura South blocks in Taumarunui County, which have been included for the benefit of claimants in the southern end of the Inquiry District, who may have an interest in these lands.

Kawhia County Council applications

block name	hearing date/ MB reference	no. owners	a	p	r	grounds	Evidence in Court ¹ /Outcome	Ultimate Outcome (where known) ²
Aotea South 3D	12/03/1954 Mercer 33/343 20/1/1955 Mercer 34/189	52	154	2	00	unpaid rates, noxious weeds	12 owners notified – a number deceased, others not found. <i>Owners not present.</i> Thorn ³ : 50 acres in grass, balance ti-tree; some ragwort & gorse. Two whare, families in occupation, 26 people in all, ‘one is an old man who is one of the principal owners, but he is a very old man and is just squatting on the property’ ⁴ - they have interest in property. Herbert has 32 cattle on property. <i>This is beautiful country ... the pick of the county. No road access.</i> It is an economic property and would readily lease. Court: adjourned 6 months for Dept to consider development. If not s.34 order will be made. January 1955: Roy Moke: Herbert still farming. Existing shacks would barely stand moving. ‘So many sections have been leased spoiled from development point of view’. Order made – ‘but if an owner does not take the lease a corner should be reserved for whare owners to move on.’	Advertised for lease in July 1955, but meeting of owners held August 1955 resolved to put under development. Development delayed until 1962, when block was gazetted part of Okapu Development Scheme: Okapu A. ⁵
Aotea South 3C1A	12/03/1954 Mercer 33/342 21/1/1955	9	37		08	unpaid rates, noxious weeds	6 owners notified. <i>Owners not present.</i> Thorn: all in grass; son of one owner runs cattle on it; owner, <i>Pe Te Ngunguru</i> , lives on it; some ragwort; ‘There is beautiful country round it. Ideal for Dept to take over.’ Court: adjourned 6 months for Dept to consider development. If not s.34 order will be made. <i>January 1955 – owner & son lives on land – land cleared but re-infested from adjoining (pakeha) land. MA Dept wont develop.</i> ⁶	Maori land
Aotea South 3B1⁷	1954	6	9	3		unpaid rates	<i>Occupied by Roy Moke, no rent, no formal lease – in good order but no rates paid.</i> <i>Moke: I’ve paid £108 rates last Monday – confusion over titles</i> Court: <i>R. Moke declared nominated owner – struck out.</i>	
Awaroa 3B2B3B	21/01/1953 Mercer 33/66	22	80	2	9	Unpaid rates, noxious weeds	Notice on 9/1/53, none returned. No owners present or represented. Cunneen ⁸ : Mr Pu Tumainu would take lease, also Arnot Brown of Owhiro. Ormsby ⁹ : noxious weeds, mostly scrub, 30 acres rough grass. Some land	

¹ Including notice of application, owner/occupier presence in court, access, objections, etc

² Based on data in Land Alienation Project, Berghan block narrative, Maori Trustee files

³ John Gordon Thorn, Kawhia County Councillor, 1952

⁴ Thorn, p 17, ‘Maori Land Court Sitting at Kawhia’, Admin. Application for land under s.34...’, Waitomo DC; DB:90

⁵ Information supplied by H Bassett, from BBHW 4958 1457c 12/7 ArchivesNZ Auckland

⁶ Swarbrick & Swarbrick to Kawhia County Council, 21 January 1955; DB:126

⁷ ‘Maori Land Court Sitting at Kawhia’, p 16; DB:89

⁸ Douglas Baden Cunneen, Kawhia County Council clerk

⁹ Frederick Hubert James Ormsby, ‘Native rates collector, Kawhia County’

							cropped each year. No one living on land, no fences, no proper farming of land. Order made.	
Awaroa A2B2A partitions (4 blocks – 1,2,3,4)	10/03/1954 Mercer 33/306	54	51	1	34	Unpaid rates, noxious weeds, neglect to farm	Registered notice to all known owners. Barrett ¹⁰ : 20 acres in grass, 15 acres cultivated, some scrub, considerable ragwort. 2-roomed house in <i>reasonable order on the property which is occupied by one of the owners</i> . 'Very desirable piece of land. ... People adjg would lease. It would be readily taken up.' Ormsby: Maori occupier has paid portion of rates. Pu family rep (present): wish to lease to Taka Honerata. Honerata (part owner & occupier): the house is mine, I have 10 cows, 12 acres grassed. Houchen: very easy block, not economic on its own. Very keen to retain land. Not much noxious weeds as far as I could see. Court: will cancel partitions, then make order - Taku as an owner can apply to MT for lease. 'The court has warned him that the mere holding of a lease will not protect him & he must farm the land efficiently as well'. Partitions cancelled, order made.	1958 complaint that lease been given to Meredith, without consulting owners. 1971 block purchased by lessee.
Awaroa A2B2B	10/03/1954 Mercer 33/309		36	1	01	unpaid rates, noxious weeds	6 owners notified. Barrett: 10 acres in rough grass, following crops, rest scrub, ragwort and blackberry. Searancke family live on block, <i>but as far as I know they are not the owners</i> . ¹¹ Quite a fair house on block. 'Useful piece of country could all be brought into grass. ... adjoining owner whose wife is part owner would desire to lease.' <i>W Hepe, daughter of owner: asks for adjournment till next day so owners can be present. I want to lease it myself.</i> Next day, some owners present. Barrett: the 10 acres is in another section, this is all in scrub, no one living on it. Part owners: good idea to lease it. Order made	Maori land
Awaroa A2D pt	17/03/1953 Mercer 33/135	58	410	1	29	Neglect to farm	Cunneen: owners notified by mail and verbally. <i>Numerous owners, none appeared.</i> Dillon: land in virgin state, pockets of bush, mainly heavy scrub; no building, no fences, 'No use of land whatever'. Order made.	21 year lease to Piwa Tuapiki, 1/1/1954
Awaroa A2F2	21/01/1953 Mercer 33/64 17/3/1953 Mercer 33/128	23	24	0	00		<i>No road access.</i> Hetet for Here family: proposed to lease to Tukotahi Tupu. Adjourned. March 1953: Tukotahi Tupu has improved land and paid rates but has no tenure. Would take lease and farm land. Two owners present agreeable to lease. Order made to appoint MT agent to execute lease to suggested lessee, T Tupu.	
Awaroa A2G1	21/01/1953 Mercer 33/59 17/3/1953	2	31	2	20	unpaid rates, unoccupied, noxious weeds	January 1953: Notice sent by registered post 9/1/1953. Ormsby: Ragwort & blackberry in patches, and grass; no fences, no survey, no road frontage. Too small for separate occupation. Adjoining owner Berntsen would take	21-year lease to Bernsten, 1/2/1954

¹⁰ Charles F. Barrett, Kawhia County Council chairman.

¹¹ 'Maori Land Court Sitting at Kawhia', p 20; DB:93

	Mercer 33/128						up lease. Hetet (for owners): owners want to lease to Jack Kingi, farmer at Te Maika. Adjourned 3 months to enable <i>King to apply for succession order</i> , owners to arrange lease. March 1953: <i>King not present</i> Owners want lease to Jack Kingi. Owner present agrees to order appointing MT. Order made.	
Awaroa A2G2A	21/01/1953 Mercer 33/60	5	24	0	7	Unpaid rates, noxious weeds	Cunneen: Owners notified, 2 returned. <i>No appearance</i> . Ragwort treated by council; Berntsen would take up lease Ormsby: badly infested. No representation by owners. Order made.	Lease 1/2/54 to E Bernsten, 21 years at £12/15p.a. Cancelled 4/11/59.
Awaroa A2G2B1	21/01/1953 Mercer 33/57	2	21	1	15	unpaid rates, noxious weeds	Cunneen: Notice sent 9/1/53. No demands for rates. Berntsen adjoining owner prepared to take up land. Ormsby: land all in noxious weeds and scrub; no road frontage. H Raukohe, part owner: <i>he would farm it himself. Ct: you are already breaking in 250 acres at Otorohanga</i> . Order made.	Lease 1/2/54 to E Bernsten, 21 years at £12/15p.a. Cancelled 4/11/59.
Awaroa A2G2B2	21/01/1953 Mercer 33/58	2	26	2	38	Unpaid rates, noxious weeds	Cunneen: notice sent 9/1/1953; <i>no appearance by owners</i> . Berntsen would take up lease; no road frontage. Ormsby: money spent on ragwort eradication, unfenced, unoccupied; 'Land should be cleaned up and used'. Owners not represented. Order made.	Lease 1/2/54 to E. Bernsten, 21 years at £12/15p.a. Cancelled 4/11/59.
Awaroa A2H2	31/01/1952 Oto 77/160	8	104	1	00		See application confirmation of lease.	
Awaroa A2J1	17/03/1953 Mercer 33/131	8	52	3	00	unpaid rates, noxious weeds, neglect to farm	T Ormsby (for principal owner): wants to take lease, deal direct with owners Dillon: 9-10 acres in grass, balance scrub & tea tree. Land not farmed, some stock grazed. Ragwort & blackberry. Would make economic unit with J3. Order made.	21 year lease to Kiriwai Erueti, 1/1/1954. Lease surrendered in 1968, block sold to Tipa Green. ¹²
Awaroa A2J2	17/3/1953					Unpaid rates, noxious weeds	An urupa – application withdrawn.	
Awaroa A2J3	17/03/1953 Mercer 33/131	27	47	1	00	noxious weeds, unpaid rates, neglect to farm	T Ormsby speaks against order: in grass and farmed. Application dismissed.	
Awaroa A2K	10/03/1954 Mercer 33/310	2	48	0	00	noxious weeds, unoccupied	15 acres in pasture, Tipa Green, adjoining farmer, in occupation; both owners deceased, notice sent to Koroki; Barrett: no fencing, ragwort bad; two adjacent Maori farmers interested. Order made.	1955 both Tipa Green and Pakeha apply for tender. On HO advice given to Green. Maori land.
Awaroa A3B2C2C1	10/03/1954 Mercer 33/315 3/12/1954 Mercer 34/148					noxious weeds, unpaid rates	March 1954: Notices sent to 4 members of Herangi family; error in panui. <i>Urupa on land</i> Tumanako Herangi (part-owner) asks for s.34 order: 'I would then live on it. There is a punga house. I would take a lease'. Barrett: not more than 2 acres in grass, rest fern, gorse, scrub, wattle – a	Public tender accepted from RJ McKinney. 1957 lease offered to T Herangi. 1958 dispute with a Middlebrook who claimed to have built cottage on land. DO agree to

¹² Info supplied by H. Bassett, based on BBHW 4958 1286b 12/13 ArchivesNZ Auckland.

							menace. F Ormsby: poorly watered, should be leased to nearby unit Roy Takiari Houchen ¹³ : not economic on its own, but if leased probably nearby farmer would lease. Adjourned. December 1954: Swarbrick: 'There have been no developments of any sort.' Order made.	reimburse labour and materials. 1967 Herangi now in Hamilton, peaceful re-entry effected.
Awaroa A3B2C2C2	10/03/1954 Mercer 33/314 20/1/1955 Mercer 34/189 18/1/1956 Mercer 35/181	1	16		37	unpaid rates	March 1954: Ormsby: Sole owner deceased, her family notified verbally; they want son, Solomon Nelson, to have land. No rates paid. Barrett: all in rough native grass, house no one is living in – 'good bit of land going to waste. Could be used with adjn secs - readily leasable'. Two days later (fol 335), Solomon Nelson: I am to become sole [successor] and will milk on property.' Court: with Swarbrick's consent adjourned 6 months 'to see whether he does progress & does pay rates.' January 1955: Solomon Nelson: not on land. Place leased to my brother in law, Tete Herbert, who has fenced, cut ragwort, has cattle. Court: adjourned with Swarbrick's consent on understanding Solomon sees that Takiari pays £6 rates at once. Nelson to get sole ownership. January 1956: Succession not yet arranged. Part XXV application withdrawn by county.	
Awaroa A3B2C2D1	9/03/1954 Mercer 33/299						Poukani Manu Haperore: I wish to lease to Matoroa Ormsby. Ormsby: I live 5-6 miles away. I will build a home on it. <i>Really, it is a home belonging to my uncle & auntie and I don't like to see anybody else getting it. It is an old homestead of the family. Houchen: the land is clean.</i> ¹⁴ Court: adjourned with Swarbrick's consent on condition M Ormsby obtains 21 year lease within 6 months, fixes fences, deals with weeds, pays rates.	
Awaroa A3B2C2D3A	21/01/1953 Mercer 33/63		1				a pa, application withdrawn.	Urupa – Maori land
Awaroa A3B2C2D3B	21/01/1953 Mercer 33/63		66				occupied & farmed, <i>rates paid</i> - application withdrawn.	
Awaroa A3B2C2D4A	21/01/1953 Mercer 33/63 17/3/1953 Mercer 33/127		52	0	1	Unpaid rates, unoccupied, noxious weeds	January 1953: Application for partition filed. Reheard following day, again adjourned pending lease and partition. March 1953: court declined to partition, no owner present. Cunneen: Land has not been leased, owners cannot agree; county has cleared weeds; no rates paid. S Dillon: land virtually unimproved, blackberry, ragwort, tea tree, no fences, no buildings, unoccupied, unfarmed. Order made – 'of unleased interest'.	<i>21 year lease to Ngarotata Takiari, 1/6/1954</i>
Awaroa A3B2C2D4B	21/01/1953 Mercer 33/63	40	220	3	22	unpaid rates, neglect to farm	Owners sent notice 9/1/53, 1 returned. <i>Numerous small owners, no appearance</i> T Takiari (part-owner): 'Owners consent to order under Sec.34'.	

¹³ L Houchen, supervisor, Maori Affairs Department.

¹⁴ 'Maori Land Court Sitting at Kawhia', p 7; DB:80

							Order made – ‘an owner to have opportunity of taking lease of land’.	
Awaroa A6B2	18/01/1956 Mercer 35/181		72	0	29	Unpaid rates, unoccupied	<i>1st heard 1955 – no evidence, no witnesses, adjourned</i> January 1956: No owners present. Reverted country - Houchen recommends no order unless lessee in sight. Swarbrick: adjoining occupier T Takiari (A6B1) is interested and will take lease. Houchen: MA Dept not interested in this country, holding too small to be economic. Order made.	Maori land.
Awaroa A7/1A	21/01/1953 Mercer 33/66	1	7	3	10	unpaid rates, noxious weeds, neglect to farm	Owner sent notice 9/1/53, not returned. Not present. Cunneen: Meredith would take lease. F Ormsby: ragwort on part, mostly scrub, no building, no fences, not farmed. Order made	<i>21 year lease to Mita Tamainu, 1/1/1954. Public tender called late 1953. 1969 lessees (Maori) served Sec 118 notice for not repairing fences, keeping down weeds. Lease transferred to Rohe Takiari.</i>
Awaroa A7/1B	21/01/1953 Mercer 33/65	2	31	0	38	unpaid rates, noxious weeds	Owners sent notice 9/1/53, not present. Cunneen: Meredith, adjoining farmer, would take lease. F Ormsby: Ragwort, mostly in scrub, ‘Owners do nothing with it’. Order made.	<i>21 year lease to Mita Tamainu, 1/1/1954</i>
Awaroa A10A	Mercer 33/134	4	8	3	29		Owners in occupation, <i>4 owners all living on the property & cultivating it - withdrawn.</i>	Europeanised, 6/1/1969
Awaroa A10B1	17/03/1953 Mercer 33/134	14	29	2	22	Unoccupied, neglect to farm	Some owners desire land should be leased. <i>Totally unimproved.</i> Order made.	<i>21 year lease to P Tamainu, 1/1/1954. Maori land</i>
Awaroa A10B2	17/03/1953 Mercer 33/133	17	54	3	13	unpaid rates, noxious weeds, neglect to farm	notice to majority. Dillon ¹⁵ : mostly scrub, 3-4 acres rough grass, small area fenced; no buildings; Mason Wetere (present) says he would take up lease. Order made.	<i>21 year lease to Meihana Wetere, 1/6/1954, but never signed. Land occupied Wetere and another family. Wetere told in 1957 lease would be let by public tender.¹⁶ Maori land</i>
Awaroa A10B3A			17	2	20		<i>No search, adjourned. Same in May 1954 – withdrawn.</i>	
Awaroa A10B3B	17/03/1953 Mercer 33/130	72	350	2		Unpaid rates, neglect to farm	Most owners notified – by mail or verbally. Numerous owners, none appeared. Dillon: some millable bush but mainly tea tree & scrub. Order made.	<i>21 year lease to P Tamainu, 1/1/1954. Maori land.</i>
Awaroa AAIAI			145	2	0		<i>Tipa Green farming whole block in good condition. Withdrawn. ‘The fact that the person farming the land has not a proper lease is not sufficient grounds on which to base an application under this Act’ (31)</i>	

¹⁵ Stanley Dillon, Awaroa-Te Kauri riding member, Kawhia County Council

¹⁶ Info supplied by Bassett, from BBHW 4958 1457d 12/21 ArchivesNZ Auckland

Awaroa AA1A2	17/03/1953 Mercer 33/129	7	95	1	00	unpaid rates, noxious weeds	Hano Te Puaha: my interest is being farmed by my son Tau Green. Some owners will lease to him, some will not. He would take lease of whole. <i>Tau Green farming half, no proper lease</i> Order made.	Leased to Hana Te Puaka (principal owner) for \$13pa, after his death in Nov 1960, lease transferred to his three sons. Rent not paid, 1962 DO suggests lease be terminated. 1968 notice served for breach of lease, Tautiti Green has been purchasing interests in block, now major owner, so nothing MA can do to enforce. 1970 freehold transferred to Tau Green, with MA to pay \$987 in comp. for improvements. Order cancelled. Maori land.
Awaroa AA1B	17/03/1953 Mercer 33/129		202	2	00	unpaid rates, noxious weeds	Owners notified by mail 9/3/1953, occupier in court. No road access Dillon: 150 acres in grass, 50 acres in scrub; house on land; shearing shed of sorts, fences fair, Turangarau Matini in occupation, 'Land is not being farmed properly'; ragwort & blackberry. Matini: I occupy. Pay no rates. Farm land with 500 sheep, 10 cattle, 4-5 horses. Could improve land if I had tenure. <i>Swarbrick: 150 acres of this block fairly well farmed by owner Turangarau Matini. We submitted that it was in the interests of the owners that this block be brought into full production & order was made on these grounds. This was rather a borderline case.</i> Order made.	<i>21 year lease to T Matini</i>
Awaroa AA/ICID2			283	1	12		<i>No search available, adjourned till March), same again in May 1953</i>	
Awaroa AA1D2	11/05/1953 Oto 78/129		209	1	12		Adjourned to August sitting. – <i>withdrawn</i>	
Awaroa B4/8B2B	5/09/1952 Oto 77/313	18	22	0	12	unpaid rates, noxious weeds, unoccupied	Cunneen: owners sent notice 12/8, 10 returned. Blackberry, no fences, no stock, not occupied, no word from owners, Mr Kerr, adjoining owner, would take up. Order made.	<i>21 year lease to WT Kerr, 1/1/1954.</i> Maori land
Awaroa B4/4	10/03/1954 Mercer 33/310 20/1/1954 Mercer 34/190	69	118			unpaid rates, noxious weeds, unoccupied	Notice sent to 25 owners, cannot find others, two present in court. Swarbrick: 10 acres rough grass, balance fern; badly infested. F Ormsby: grassed area used as sportsground; people live in ponga whare on land <i>and people are living in it in very poor circumstances</i> ; son of part-owner (with home on block) interested in leasing. Supported by two part-owners present: 'One of owners would take lease to preserve sportsground'. Order made. Later that day, T Kerapa: George Tata has been occupying over 10 years, recently we had a meeting & decided to reserve piece for marae and urupa (15 acres), nothing less will do. There is a 9-acre flat ... to support the marae. <i>Wants papakainga. Judge: Papakaingas are dead now. A marae is alright, but papakainga is bad</i> T Tata: my boy lives on block in ponga whare. This idea is not new it is an old one. To have marae on 15 acres. The 9 acres is suitable for cropping.	

							<p>The whaitapu is about an acre. Last burial was a year ago.</p> <p>Court: earlier order vacated. Adjourned to sort out marae partition: 'The Court does not favour an area of more than 2 acres for marae - if they have 10 they will rob the block of all its best land. ... The Court warns the parties that they must act vigorously. ... The question arises as to whether another marae is reasonable – the support or otherwise of the Welfare Officer is in point. Generally speaking too many maraes mean too many uncared for communal bdgs)'. January 1954: G Tata: we do want marae, just where is not settled. LA Curnahan, sports club chair: 3 acres for urupa & marae sufficient, land could be leased to sports club and money to marae. Court: earlier partition order cancelled. Awaroa B4 Sec.4A to contain 3 acres at south-west corner of block. Part XXV order made with respect to B4 Sec.4B east of road, the owners to lease the part west of the road (the flat) or they will end up by losing it not for bad farming but for non payment of rates.'</p>	
Awaroa B4/8B1	10/03/1954 Mercer 33/311		27	3	38	Unpaid rates, unoccupied	<p>F Ormsby: notice sent to owners; Kerr, adjoining farmer, very interested, 'it links up the rest of his property'. Barrett: all in light virgin bush; no one living on it, no clearing at all, no improvements, no noxious weeds. Court: order made - but rent to be not less than £5p.a.- if only 15/- a year being 5% of £15 the compensation payable at expiry would be out of all proportion to rent received.</p>	Maori land
Awaroa B48B2	<i>May 1953?</i>		31	0	12		<i>No search, adjourned. May – order was made last September (?) - withdrawn</i>	
Awaroa B5/1	18/03/1953 Mercer 33/138 19/1/1954 Mercer 33/264 Judgement: 22/1/1954 Mercer 33/293	1	22	1	11	unoccupied, noxious weeds, neglect to farm	<p>March 1953: Swarbrick: half area grassed, balance scrub & weeds, not farmed, no buildings F Ormsby: confirm land not farmed, rates paid lately. 'Land should be farmed'. Adjoining owner would take lease. Order made. January 1954: application for cancellation of order. Sole owner R Barrett represented: land is occupied, farmed and largely free from noxious weeds, rates paid. This was the case when the order was made - the owner intended to appear and object but when he appeared on recommended day, order had been made and court had risen. Owner has since executed a valid 10-year lease to George Tata. Denies allegations of poor farming. G Tata: 'We have taken more hay off this Block than off any other similar area I am farming. I have cropped this land. I sowed manure thereon last September. Cross-examined as to family circumstances, farming experience, finance. Opposed by county. Judgment reserved. Reserved judgment: Cancels order: 'S.34 ... does not require a Maori owner or occupier to farm according to the highest standard of European farming.' Rather, orders based on the neglect to farm under s.34 should only apply '... when the standard ... falls below the standard of the average Maori farmer, so that the land by the presence of noxious weeds or other neglect is a menace to other adjoining land, and is not contributing by</p>	1973 lessee purchased freehold of block. Alienated to DC Noonan, nd.

							payment of rates to the local body	
Awaroa B5/3B1A	17/03/1953 Mercer 33/136	17	13	2	26	<i>Unoccupied, neglect to farm</i>	no notice to owners, addresses unknown. <i>Court deems display at post office sufficient. Block small, no major owners</i> Swarbrick: same as for B5/3B1B. Order made.	<i>21 year lease to Tame Moihi, 1/1/1954</i>
Awaroa B5 /3B1B	17/03/1953 Mercer 33/135	22	34	3	12	unpaid rates, unoccupied, neglect to farm	Cunneen: owners notified – addresses of some unknown, <i>no appearance</i> Dillon: hard to separate this from A2D; some good timber; no occupation, heavy blackberry on frontage, wholly unimproved. ‘Should be alienated with 3B1A & would make a nice little farm’. Order made.	<i>21 year lease to Tame Moihi,</i>
Awaroa B5/3B2	17/03/1953 Mercer 33/137	18	37	0	9	Noxious weeds, neglect to farm	Tame Moihi (Thomas Moses) present has ½ share - wants to lease with 3B1A & 3B1B. Dillon: House on land owned by T Moses, he uses 3 acres, balance in heavy scrub and not used. Blackberry and ragwort. Court: Order made – but interest of T Moihi to be excluded from lease if he does not become lessee. This land should be leased with 3B1A & 3B1B if possible.	<i>21 year lease to Tame Moihi Europeanised 4/2/1971</i>
Hauturu West 2B4C pt	5/09/1952 Oto 77/314 21/1/1953 Mercer 33/62	17	427	0	00	Unpaid rates, noxious weeds, neglect to farm	notices sent 12/8, 8 returned. Several owners present. Cunneen: gorse, ragwort, in main covered with tea tree. Haswell brothers nearby would take up land. No road access, Whyte would give access, no buildings. H Mohiti (owner): there is no access. (Swarbrick: legal access but no road constructed). Would like access through Whytes. Owners will lease to Matenga – good land & should be farmed. F Stokes (farmer): no part being farmed, part cropped years ago, gorse spreading. Matenga (farmer at Waingaro): would take lease and get finance from Maori Trustee. Court: adjourned to Kawhia, if no proper arrangement for lease & finance, then order will be made. January 1953: Kamoe Heemi Rangitawa lives on land & keeps one cow, wants to continue on land. Matenga not present to show he can lease & farm. Order made, provision to be made for exclusion of Kamoe’s house & 8 acres surrounding it and 1 acre for urupa.	5 June 1954 inquiry from U Rangitaawa, part-owner as to lease. Leased to Porteous 1/1/1954 at \$30pa plus \$220 for improvements. 1972 lessee purchased freehold
Hauturu West 3B2A			27	0	21		<i>No search, adjourned. Same in May – withdrawn.</i>	1957 sold to A Brown, over objections of owners. Sale of land means no access to Hauturu West 3B2B3A and 3B (below).
Hauturu West 3B2B3A	21/01/1953 Mercer 33/67 18/3/1953 Mercer 33/138	19	57	0	10	Unpaid rates, noxious weeds, neglect to farm	Pu Tomainu, an owner, present, he is in occupation. ‘ <i>He was cropping the land with the assistance of neighbours & gradually bringing it into pasture</i> Adjourned, <i>so he could negotiate lease with owners.</i> March 1953: P Tomainu would take lease. F Ormsby: land not being properly farmed, some cropping and grazing; whare on land, 2/3s in scrub.	<i>21 year lease to Pu Tomainu, 1/1/1954. Problems of access (see above), leased to B King for 21 years from 1/6/1958. 1965 lessee purchased freehold.¹⁷</i>

¹⁷ Info supplied by H. Bassett, based on BBHW 4958 1457e 12/32 ArchivesNZ Auckland.

							Cunneen: No proper occupation, noxious weeds, no rates paid. Tumainu wants lease. Order made.	
Hauturu West 3B2B3B	21/1/1953		80	2	09		<i>No appearance, order made</i>	21 year lease to Pu Tamainu, 1/1/1954. Problems of access (see above), leased to B King for 21 years from 1/6/1958. 1965 lessee purchased freehold. ¹⁸
Hauturu West G2/2B2 parts begins as township block	11/05/1953 Oto 78/129		1689	2	10	unpaid rates, unoccupied	<i>Starts as application for township reserve DP7460 Pt Kinohaku West 11C Taumatotara & Hauturu West A (Blk, 34:2:3) – but land cannot be identified. Adjn sine die 21/1/1953. Then discovered its part of the much larger block vested in Maori Trustee, lease of which expires in 1957. Adjourned so county can bring fresh application for whole block.</i> Cunneen: A Mr White (farmer across road) interested in part of land; no occupation; a Maori has a shack on the reserve; no rates paid. Neal (farmer): Some areas heavy bush – not much milling timber left. Two Maori shacks occupied by squatters, not owners. They grow food, 18 horses, 14 cattle, sheep. Neglected area. Order made.	Could not find in land alienation project.
Hauturu West BB5	17/03/1953 Mercer 33/133	55	129	1	12	unpaid rates, noxious weeds, neglect to farm	notices sent to majority, some addresses unknown. One owner present in court <i>but interest so small Court would not consider</i> F Ormsby: mostly in tea tree & scrub; no buildings, some boundary fence; blackberry & gorse; no improvements, not farmed. Adjoining farmer Emmett would take lease. Order made.	Leased to M.J. Emmett, 1/1/1958 for 21 years, 75% compensation. Since alienated TN26/16&17.
Hauturu West BB6	18/03/1953 Mercer 33/139	45	161	3	36	Unoccupied, noxious weeds, neglect to farm	notices sent to majority, <i>numerous owners, none appeared</i> F Ormsby: one owner attended yesterday and was agreeable to land being leased. Land is virgin scrub & tea tree, totally unimproved, no buildings, no occupation, some blackberry, ragwort. Emmett would take lease. Order made	Leased to M.J. Emmett, 1/1/1958 for 21 years, 75% compensation. Since alienated TN26/16&17.
Hauturu West BB7			42	0	00		<i>No notice, adjourned. Same in May – withdrawn.</i>	
Kawhia A2C1	5/09/1952 Oto 77/311 22/1/1953 Mercer 33/72 9/3/1954	2	6	0	23	Unpaid rates, unoccupied, noxious weeds	September 1952: Cunneen: notice given 16/8; area in tea tree, no occupation, no rates, ragwort; owners telegraphed for adjournment and told hearing will proceed. Court: order made – provision may be made for removal of firewood by owners. January 1953: adjourned to January 1954 - owners to pay rates and keep clear of weeds, previous order cancelled. March 1954: <i>M Moke applied for cancellation of order.</i>	21 year lease to A McLaughlan, 1/10/1955. Subsequently Europeanised.
Kawhia A2D1	5/09/1952 Oto 77/312		7	1	35	unpaid rates, unoccupied	notice sent to owners. Cunneen: land unoccupied, mainly in tea tree with blackberry and a little ragwort. No word from owners, not present. Adjoining owner would take lease. Order made.	21 year lease to A McLaughlan, 1/10/1955. Maori land.
Kawhia B2B	10/03/1954 Mercer 33/322		20	1	32	unpaid rates	8 owners notified. No road access. Thorn (farmer): all tea tree, no noxious weeds. Turnbull interested in lease	21 year lease to Pohe Turnbull, 1/8/1955 at £5p.a. Consolidated 1961

¹⁸ Ibid.

							M Wetere (on behalf of uncle): supports lease to Turnbull M Moke: my brother has largest share, make order and offer him first chance. <i>H Moke: notice so sudden, we've had no time to discuss – we don't like 75% compensation. Wants time.</i> Order made – rent not to be less than £5p.a.	– 1 owner (1962 C Turnbull acquired freehold from Maori Trustee through conversion). 1 acre 16 perches taken for scenic purposes. Lease surrendered 1964. ¹⁹ Jan 1966 amalgamated to become part of Kawhia B3.
Kawhia G2A	9/03/1954 Mercer 33/301		22	3	18		Owners present. – <i>claims nobody knew or received notice</i> T Taraho: asks for adjournment for succession [refused]. Not badly infested. Existing lease to Maurice Scott, but don't know to whom rent is paid. <i>Ct to Swarbrick: why don't you summons him? 'It is difficult to prove occupation.' Scott financed purchase of land for pa - £275. Judge 'he should have paid the rates' - £250 in arrears.</i> W Erueti: We all do a bit of farming so we are trying to get land. Court: meeting of owners should decide to lease to one of their number - 21 yrs, 75% comp. If they don't within month, or lease not completed within 6 months, court will make order	Amalgamated All G2A1 listed as Maori land. April 1955 MT approaches Forestry with view to Crown forestry. Negotiations with owners unsuccessful so dropped. MT tell Min June 1955 vesting order should be dropped until leasee can be found. Kawhia CC approached - propose adjoining landowner I Davies who agrees to plant grass, not trees. Approved by Min Oct 1955. Complaints about rentals. 1965 lease transferred to Bradford, owners not notified.
Kawhia M1/2B	10/03/1954 Mercer 33/320		18	2		unpaid rates	Notices sent to 18 owners. Some present. Thorn: 5-6 acres in tea tree, balance is sand – poses threat to town. Houchen: some owners are willing to sell to Crown to save town. T Wetere: wants to lease the part under manuka.	
Kawhia P8/3A1	10/03/1954 Mercer 33/323	2	4	2	26	Unpaid rates	Notice sent to 1 living owner, and successor of deceased. P Moki: asks for adjournment so that owners may discuss.	
Kawhia P8/3A2	10/03/1954 Mercer 33/324		31	3	29	unpaid rates	K Tamaki: land leased to Scott since 1905 (<i>the father</i>) - we will talk about who will take a lease, we don't want confiscation. Give us 1 month to arrange lease. <i>Scott (the son) leased this land 9 years ago, but county council have not asked him for rates. This is the first time county has asked for rates. I have never received any word. I cant see why they rate these unproductive lands. There are no roads. Issue of 75% compensation clause again – it will be a 99 year lease</i> Thorn: hard to locate block exactly, no buildings, rough pasture, scattered gorse, sections should be grouped. Mr Davies and Mr Erueti desire lease. Ct: these sections are not economic owing to the cost of fencing. Whether the owners a legal lease privately or not the work involved will be much less if the titles are amalgamated. Order under s.146, amalgamation of title. Some present agree. Titles amalgamated into Kawhia R2C nos. 1&2, the owners to have 1 month to arrange lease, and 6 months to complete same. If they fail in either respect order will be made. January 1955: Amalgamated title - Kawhia R2C1 – subject of application 'The owners have done nothing'. Order made.	
Kawhia P8/3B	10/03/1954 Mercer 33/324		22	3	33	unpaid rates		
Kawhia P8/4B	10/03/1954 Mercer 33/324	41	47	1	12	unpaid rates		
Kawhia P8/5B	10/03/1954 Mercer 33/325	16	38	2	3	unpaid rates		
Kawhia R2A9	10/03/1954 Mercer 33/325		40	3	00	unpaid rates		
Kawhia R2B2	10/03/1954 Mercer 33/325 20/1/1955 Mercer 34/192	36	40	3	07	unpaid rates		

¹⁹ Info supplied by H. Bassett, based on BBHW 4958 1458e 12/47 ArchivesNZ Auckland.

Kawhia T2/3A	11/03/1954 Mercer 33/333	1	9	1	02	unpaid rates, noxious weeds	Sole owner deceased, successors unknown. <i>No notice, TT Porima wants to lease</i> Thorn: some grass, heavily infested, it is a good piece of land. Order made - lease should be brought to notice of Porima, minimum rent £5.	21 year lease to NG Simmons 1/1/1955. Maori land.
Kawhia T2/3C1	9/03/1954 Mercer 33/302		12	3	3	Noxious weeds	R Wehewehe: I would like T Porima (<i>adjoining farmer</i>) to take lease. T Porima: I would lease land. Ct: succession orders dealt with first. Adjourned on condition lease to Porima is arranged within 6 months - 21 yrs, 75% comp.	Europeanised, 27/2/1970
Kawhia T2/3B	11/03/1954 Mercer 33/333					unpaid rates	Notice to 6 known owners - could not find 2 major owners Thorn: land in same condition as T2/3A. Order made. Lease should be brought to notice of TT Porima, minimum rent £5.	part-owner T Porima, wants lease. Leased to Daysh, transferred to Englebretsen in February 1961. Inspection report of 1967 shows no work on property, MT suggests to Porima that he take action with lessee. dispute settled 1968. NB Berghan block narrative - sold to Porima 17/6/1955 for £80.
Kawhia T2/3C2A	12/03/1954 Mercer 33/335 20/1/1955 Mercer 34/192	1	3	2		unpaid rates	March 1954: notice sent. Thorn: land has been cleaned, gorse regrowing, no road access, no buildings Court: If the area were larger the court would make order. If the other parts of the partition made in 1950 had not been legally leased the court would have cancelled partition. Would do so now if lessee agreed. But is the expense of a s.34 justified for a lease which will produce only 30/- a year. Will discuss with district officer. January 1955: Court will make order when County can find lessee @£3 per year.	Alienated to N. Danks, nd.
Kawhia U3B1	9/03/1954 Mercer 33/300		3	1	10	unpaid rates	R Maanga: I will lease to Mr Chubb – adjoining man - £9 year for 10 years Court: with county consent, adjourned to complete lease	Europeanised, 19/5/1969
Kawhia W1	12/03/1954 Mercer 33/336	8	8	3	16	unpaid rates, noxious weeds	3 owners notified. Thorn: 5 acres grass, balance fern, tea tree and part swamp. Ragwort & blackberry. Some unauthorized sheep grazing, old building unoccupied <i>R Moke: urupa in block.</i> Falwasser: didn't know of land until I got notice. I have offer of Roy Moke to pay back rates & develop. Wants formal lease. Order made, rent not to be less than £5p.a.	Europeanised 6/2/1968
Kawhia W2C1	9/03/1954 Mercer 33/303 20/1/1954 Mercer 34/192		31				March 1954: H Pouwhare: We have a man in view to lease it – <i>his son, a returned serviceman, to farm with 3G4.</i> Reheard two days later (p.332). A Kewene: I will not lease to H Pouwhare's son. He has only 5 acres out of 30. Later: I will try to sell to H Pouwhare and I realise unless land leased within 1 month, order will be made. <i>Court: it doesn't make economic sense. Also unpaid rates not the issue: 'You must lease it'</i> January 1954: Hone Pouwhare: I have done nothing about leasing. Vests	21 year lease to A Pouwhare, 1/9/1955. Subsequently partitioned W2C1A Crown land and W2C1B Maori land (30 acres, 2 roods, 6 perches)

							his shares in son. Part XXV order made.	
Kinohaku West 11D3B1A	11/05/1953 Oto 78/130	17	71	2	16		notice to owners 17 & 18/4, none returned. Several people interested in leasing. Neal: 20 acres bush (steep), 10 pasture, 41 rough grass & fern. Ragwort under control, Good house, cowshed – had deteriorated. George Tata is living on place & farming it. Could be farmed to profit if suitable tenure. G Tata: I build house 6 years ago, not farming land seriously. I agree to Maori Trustee being appointed, I would like to get lease. I pay rates. Order made.	21 year lease to G Tata 1/1/1955. paying rates on land. 1966 property inspection - farmed by adjoining farmer AM Wright. Memo says Tata is a bad lessee in terms of paying rent - but he owns 3/4 of land. 1971 lessee purchased freehold. Sold to A Wright nd.
Kinohaku West TT2	11/05/1953 Oto 78/131		131	3	33		notice given. Neal: less than ½ in grass, rest in scrub and fern. Good house, cowshed. Held by European until 2 years ago. Lessee let land go back. Mori Wanokore lives and farms on land with few cows and another Maori grazing. M Wanarore: I live on land, milk 3 cows and will have 6 next season. Been there 18 months, work for neighbour. Pay rates. Ragwort in tea tree. Adjourned to November to see progress. <i>Owner present: agrees land being farmed, rates paid, struck out</i>	Europeanised 19/1/1971
Marokopa A1		1	98	1	02		<i>Vested in sole owner who was farming it well – withdrawn.</i>	
Marokopa A2	11/05/1953 Oto 78/132	10	110	2	3	Unpaid rates	notice sent to owners 27/28 April. <i>No appearance.</i> Neal: 8 acres flat, in rough grass. Blackberry along edges. 80 acres fern & poor grass. Corrugated iron house empty, some stock there - neighbouring farmer. Kept ragwort under some control. Order made.	21 year lease to Kiwi Retemeyer 1/1/1954
Moerangi 3C/4			49	2	00		<i>No search, adjourned.</i>	
Moerangi 3E1A	5/09/1952 Oto 77/306		21	1	7		notice sent 12 August, 2 returned. land cleared, grassed, fenced, no rates paid. H Maihi (part-owner): an arrangement with neighbor Thorn, but no lease. Thorn: I use land & keep it clean. Pay no rent & no rates. Want to take lease of land. Order made.	21 year lease to JG Thorn, 1/1/1954. 3E1A farmed by Thorn by way of agreement with owner. Lease proposal to part-owner W Apiti falls through because he refuses to pay for improvements. Public tender unsuccessful. 1957 DO describes land as 'unleasable', July 1957 order is cancelled. 3E1 Sold 28/6/1965.
Moerangi 3E1B	5/09/1952 Oto 77/307		181	3	8	Unpaid rates, noxious weeds, unoccupied	Notices sent. One owner present. Cunneen: land in gorse, tea tree, pou, lupin, ragwort, no stock, no evidence of occupation, no rates; approximately 20 acres of bush. Thorn: adjoins my land, greatest portion in bush – remaining not of great value. Rest of land in second growth. Timber not worth preserving – should be cleared off and grassed. I could farm land to advantage and pay rent. Order made.	21 year lease to JG Thorn, 1/1/1954. 3E1 sold 28/6/1965
Moerangi 3E2A	5/09/1952 Oto 77/309		202	1	15	noxious weeds, neglect to farm	Notices sent 12/8. One present. Cunneen: 50 acres in grass, remainder tea tree & light bush. Blackberry & ragwort. Some owners use grassed area & have stock but not properly farmed. Dwelling on land not bad.	24/3/1953 Min MA withheld consent. Maori land

							Thorn: Dave Apiti lives on land. Tohi Apiti formerly farmed with dairy and sheep – once said to have carried 100 cattle & 600 sheep. In last 20 years gone back. Meeting house on land, & 2 or 3 small buildings. Ingeverson would take lease. T Apiti: says he could farm the land or part of it. Order made - provision to be made for owners occupation of buildings	
Moerangi 3E2B1	5/09/1952 Oto 77/310	23	169	1	18	unpaid rates, noxious weeds, neglect to farm	notices sent 12/8/, one returned – 3 owners present. Cunneen: looks as if formerly farmed, now reverted, tea tree, blackberry, ragwort; small ponga whare on it; no rates; no fences; no stock. H Maihi: there has been no improvement during last 20 years. Tatau Arangi: I object to order. Whare lives on land. Thorn: agree with county description. Order made - provision to be made for continued occupation of hut by Whare.	Maori land
Moerangi 3F	9/03/1954 Mercer 33/298 20/1/1955 Mercer 34/193		320			unpaid rates	6 owners notified, could not trace others. H Maihi, part-owner (& <i>adjoining farmer</i>): no access. 'If there had been it would have been developed by me. ... I want the Court to put in road [over 3E2 – Maori land]' <i>I want you to get the council to put a road through</i> ' (78) <i>Court wont consider Maihi developing it (issue of capital): MA Dept wont develop it either.</i> Reheard three days later (fol 337). Thorn: mostly tea tree & light bush, none in pasture. Economic on its own. Court: District officer to investigate development by Dept. If not, then order will be made, but lease not to be advertised until access brought before court & prosecuted. January 1955: Dept will not develop. Order made, as above.	Maori land
Moerangi 3G3B	9/03/1954 Mercer 33/295		71	2	33		TT Ranana (<i>George Randall</i>): My family had meeting, decided one of family – Dufty K. Martin - should take lease. He is a farmer at Huntly. I would build a house. K Martin Jnr: examined as to ability, finance. D Paki my father in law lives next to this block. He would help me and I would develop this as a grazing proposition. Court: with county's consent 1. Martin to obtain 21 yr lease within 6 months; 2. to do some improvements within 12 months; 3. to do substantial improvements within 24 months or s.34 order will be made. Adjourned.	unknown
Moerangi 3G4	9/03/1954 Mercer 33/304 20/1/1954 Mercer 34/193					Noxious weeds, neglect to farm	March 1954: H Pouwhare: 'John Paki was to buy 3G4 - then I thought I would get my son on. Houchen: the 2 areas would not be an economic unit. Swarbrick: I oppose any further adjournment. Pouwhare for the last year has asked for delay so that he might obtain a lessee. Court: gives one month for Pouwhare to find lessee – or order will be made. Reheard three days later (fol 338) Thorn: 10 acres in rough grass, rest with tea tree, blackberry, ragwort. Part of a large area which every one has grazed casually. No buildings. J.Paki would take lease. Adjourned 6 months that Dept may consider development of blocks 3G4, 3G5B, 3G5C. If not sec.34 order will be made.	unknown

							January 1954: Struck out - to be regazetted if not sold.	
Moerangi 3G5A			5				<i>A Maori reserve (Okapu pa) – withdrawn (107) ‘to be candid the pa is a terrible outfit’ (108)</i>	
Moerangi 3G5B	9/03/1954 Mercer 33/299 20/1/1954 Mercer 34/192		125	3	32		March 1954: T Mahara: my family want the land brought under Part I. Houchen: It would be favourably reported on. Adjourned. January 1954: This is the area with a number of houses & many horses. D Mahara: I live on block, we want it brought under development. There are 30 or 40 living on block. Court: 20 acres should be cut out for papkainga and balance brought under Part XXIV. Adjourned for Dept to proceed if it will.	18/1/56 35Mercer182, Houchen: making some progress towards starting development. Owners present, awaiting partition as indicated in MA report. Application struck out. With Moerangi 3G5C 199a3r8p.
Moerangi 3G5C			199	3	8		<i>Dealt with 3G5B</i>	
Moerangi 3G7	11/5/1953 12/03/1954 Mercer 33/339 17/1/1955 Mercer 34/193 18/1/1956 Mercer 35/183	19	49	2	00	Unpaid rates, noxious weeds	<i>Ist heard March 1953 – adjourned to enable John Paki to purchase block</i> May 1953: notified 7 owners, unable to trace successors of deceased. Thorn: 20 acres rough grass, balance tea tree. Gorse & blackberry considerable. Whare with man, wife and 8 children in it, they are squatters. <i>They are not attempting to farm. I doubt if anyone would give this man a lease.</i> They have some cows on it. The whole block could be developed – a good piece of land – dairying. Court: This would work in well with 3G4, 3G5B & 3G5C. Adjourned 6 months so Dept may consider development – if not order will be made. January 1955: Dept will not develop. Court: adjourned with Moerangi 3G5B January 1956: Houchen: owners do not want to come under dev. They have their own ideas. P Te Ngaru (owner/occupier): I was born there. My parents lived there. ... I am the only occupier with my wife and 9 children. I have been there all my life. I only crop there and run a few cattle. ... I desire to continue residence there. I use the whole block. I have not paid rates. Swarbrick: I ask for adjournment to give Te Ngaru an opportunity of acquiring block or getting tenure & paying rates. Adjourned.	Unknown.
Moerangi 3L1			50	0	00		<i>Adjourned to March to enable Thorn to negotiate with owners for purchase, then withdrawn because majority of owners not Maori (see correspondence) rates paid, undertake to keep land free of noxious weeds.</i>	
Motukotuku A2			65	1	00		<i>Moke family, heard in court Jan 1953 – sold to Matire Turnbull – struck out</i>	
Pakarikari 1A	12/03/1954 Mercer 33/340 17/1/1955 Mercer 34/193 18/1/1956 Mercer 35/184	23	99	3	11	unpaid rates, noxious weeds	March 1954: notified 10 owners F Ormsby: I saw occupiers, they are keen to take land, one has quite a good house. Thorn: 50 acres in grass, rest tea tree; every noxious weed. Two families on it, they want to farm it but no tenure. It is a very desirable block, an economic farm on its own. <i>They have some stock running on it, but they are not farming the land as we would say they should farm it. They are more or less just staying there.</i> Adjourned 6 months for dept to consider development	Now Okapu A block

							January 1955: adjourned again to consider development. January 1956: proposed unit occupier is one of the occupiers for some years. Application struck out.	
Pakarikari 1B1	9/03/1954 Mercer 33/300		8	3	23		<i>Unimproved value = £25, based on shooting rights. County is sure there will be a lessee</i> P Onehi: I don't know what to do with it K Onehi: I will go to solicitor Court: The land is all lake. It cannot be improved and the matter is for the council one of rate collection.'It is stretching a point to say that the land is not being used to its best advantage in the interests of the owners & in the public interest' when the use would be a lease to a duckshooter.' Order made.	Maori land
Pakarikari 1B4		2	36	3	38	<i>unpaid rates, noxious weeds</i>	<i>Thorn: no buildings, grazed by Morrison who says he had lease confirmed at last sitting in Te Kuiti. Adjourned 6 months, if no lease Dept may develop, otherwise order will be made. Struck out Jan 1955</i>	
Pakarikari 2A	12/03/1954 Mercer 33/341 20/1/1955 Mercer 34/194	19	46	2	14		March 1954: 9 owners notified. <i>Katipa present: I want my children to come back and work on it (lives in Hamilton); Court: how much money has he? Issues of notice, time away from work, small interests, the need to lease when you own it.</i> Thorn: no grass except patches, gorse & blackberry. Court: adjourned that lease to Smith may be seen into, or Dept. development, if not order will be made. January 1955: Struck out.	Leased Oct 1954 to HL Smith, purchased by lessee 18/3/1975
Pakarikari 2C2	12/03/1954 Mercer 33/342	2	26	2	20	<i>unpaid rates</i>	registered notice to both Thorn: considerable trouble to find block; all sand except 3 acres - should go to state forest, no use for leasing – <i>issue of Valuation Dept not inspecting lands</i> Court: struck out, should be declared non-rateable.	
Pirongia West 1/2A	21/01/1953 Mercer 33/61 17/3/1953 Mercer 33/132	5	290				January 1953: notice on 9 Jan. Tony Ormsby present for owners, Cunneen: rates paid while leased to Beckon (<i>Beatson</i>) - not since; lease expired 12 months ago; <i>Issue of Beatson's treatment of land while under lease.</i> Dillon: no road access; land would make nice farm; T Ormsby: owners have not had time to organise new lease. Court: adjourned till March to enable owners to organise lease March 1953: <i>T Ormsby: owners wished all blocks vested in Maori Trustee. Blanket order made.</i> T. Ormsby: agree that order if nothing done within 3 months. Court: order to take place take place in 3 months if owners do not alienate in meantime by agreement	unknown
Pirongia West 1/2B2A1	21/1/1953		116	0	36		<i>Court made reference to Beatson's treatment of land while lessee. Adjourned to give owners time to arrange lease. Green has already arranged for lease of 2B3A1. Ormsby: owners wished all blocks vested in Maori Trustee. Blanket order made.</i>	
Pirongia West 1/2B3A2	21/1/1953		116	0	36			
Pirongia West	21/1/1953		116	0	36			

1/2B3B								
Pirongia West 1/2B3C	21/1/1953		209	0	06			
Pirongia West 1/2F1B1; also 1/2F1B2Bpt.; 1/2F1B2Bpt	21/1/1953		6	0	09		<i>No search, adjourned; same again in May - withdrawn</i>	
Pirongia West 1/2F1B2B	5/09/1952 Oto 77/312 21/1/1953 Mercer 33/63 11/3/1954 Mercer 33/329		152	3	44		September 1952: P Moke: asks for adjournment and objects to order. After discussion, adjourned to Kawhia - owner must then show proper arrangement for occupation and use of land. January 1953: objection by owners withdrawn. Order made - owners want lease to go to Heti Moke one of the family. March 1954: court intended order to cover main part of block (144:0:15 acres). Order amended. H Moke: I have a complaint – in December received word from Dept about lease of block - land has been leased to Meredith instead. 'Heti and his 2 sons just back from Korea have lost the family block. ... Apparently nothing can be done now but the Maoris have been agreeing to orders this week on the promise that they will have first opportunity to lease'	21-year lease to Patrick Meredith, 1/9/1954. Alienations recorded for JB Scott, KP Porima, M Mai.
Pirongia West 2B1			24	3	37		<i>owner Maringiringi Te No (Renee Cowell) appeared and stated she'd leased it, an unregistered grazing right. Court adjourned to enable proper lease</i>	
Pirongia West 3B2C5A & 3B2C5B			566	2	35		<i>An adjoining owner AJ Carmichael appeared and said he was negotiating to lease this land from the Maori owners, hearing adjourned to enable him to make progress. 21/1/53 application withdrawn – whole area leased to Carmichael. (21)</i>	
Pirongia West 3B2D	18/03/1953 Mercer 33/141 10/3/1954 Mercer 33/332 20/1/1955 Mercer 34/194		63	2	0		Insufficient notice, adjourned to Te Kuiti. 11/3/1953 – <i>already leased, Court declined to deal with application on these grounds. No access, Langdon brother lessees left it infested with weeds</i> March 1954: F Ormsby: main owner Miki Te Hae informed - back rates paid, small amount owing. Te Hae wanting development assistance, has been working on property and making good progress. Adjourned 6 months. January 1955: Houchen: Dept will not assist. I have seen Mate Te Hai here this morning. She desires it leased. Court: heavy ragwort over whole, and blackberry on river bank and swamp edges. Police constable: Te Hae lives in ponga whare. I have quite an amount to do with him. Order made.	Unknown
Taumatotara 4B2	5/09/1952 Oto 77/313	2	17	1	35	unpaid rates, noxious weeds, unoccupied	notices sent, none returned Cunneen: covered in scrub; gorse & ragwort; adjoining owner S.G. Whyte would take up this land. Order made.	21 year lease to S Whyte, 1/1/1954; subsequently alienated to C. Brown, nd.
Te Kauri 2E	10/03/1954 Mercer 33/317		28	0	00	Unpaid rates, noxious weeds	notices sent to 4 owners – <i>hasn't told Paki family, principal owners, about application</i> F Ormsby: approached by several Maoris & pakehas to lease. Barrett: 5 acres in grass, runs up to steep bluff. Blackberry & ragwort. Someone cuts 4-5 acres of hay, someone puts kumeras in but they are not	Unknown.

							owners; no fences, half is useless. Court: order made - lease should provide for non-removal of bush from very steep face.	
Te Kauri 2F2A	18/03/1953 Mercer 33/140		55	1	26		Adjourned from January, so Tom Kerapa could get proper lease. Kerapa is apparently farming this block of which it appears only 50 acres are ploughable. Kerapa however has no registered lease. March 1953: owners proposed to lease but nothing done. £5 paid on account of rates. Order made.	21 year lease to Tukotahi Tupu 1/1/1954. Europeanised 29/1/1970
Te Kauri 2F2B	18/03/1953 Mercer 33/140	1	27	2	33	unpaid rates, noxious weeds	1 st heard Jan 1953. notices sent, five returned. Cunneen: £5 paid on account of rates by Tom Kerapa; one Martin would take up lease of these two blocks and 2F2A. Dillon: both blocks unoccupied except for one house; badly infested with weeds; Tom Kerapa is doing some farming but not effectually. No serious attempt to farm. Order made	21 year lease to Tukotahi Tupu 1/1/1954
Te Kauri 2F2C	18/03/1953 Mercer 33/140	6	110	3	12	unpaid rates, noxious weeds	As for 2F2B	Unknown.
Te Kauri 2K1	10/03/1954 Mercer 33/317		191	0	20		notices sent to 4 owners, rest not located. Barrett: practically all in scrub except a few acres of blackberry & gorse. Unoccupied ponga whare; could be developed with 2K2 - a man could make a sheep farm. Tei Tata: I would like to lease my mothers share following a partition. Court refuses: <i>Nobody is using it. Nobody could use it without a lot of money.</i> Makes order for 2K1 and 2K2	1956 Maori Affairs considers development 'uneconomic'. Land unleased. 1958 court confirms resolution of owners to grant timber rights. 1964 Maori Trustee applies for cancellation of its appointment as trustee. ²⁰
Te Kauri 2K2	10/03/1954 Mercer 33/318		150	0	27	unpaid rates, unoccupied	7 owners notified. F Ormsby: 2 Europeans have inquired for lease. Barrett: could be developed with 2K1. Order made.	Leased to Tapu Jack King, property report of March 1966 says no effort to improve property, rates not paid, King has limited finances to develop land. Sept 1966 peaceable reentry effected.
Te Kauri 2L	10/03/1954 Mercer 33/319 25/1/1955 Mercer 34/192 13/8/1957 Oto 81/263	1	27	1	09	Unpaid rates	March 1954: Sole owner notified. Very isolated. <i>No road access.</i> Barrett: know proximity of block, too difficult to get on. <i>Swarbrick: could it be declared non-rateable, to get it out of county's books?</i> Court: here is a triangular block of land far from a road... Only an adjoining owner would consider. Rental would not be worth the trouble of organizing, 'or should the Court recommend that it be rate free for 10 years.' January 1955: Court will make order when county gives assurance that someone will pay £3 a year rent. August 1957: heard 3 years ago, judge declined to make order unless lease arranged. Now produce letter complying with Prichard's requirement. Order made	

²⁰ Info supplied by Bassett, based on BBHW 4958 1458d 12/43 ArchivesNZ Auckland

Raglan County Council applications

Block name	Hearing date/ MB ref.	No. owners	a	r	p	grounds	Evidence in court/outcome
Karamu parish Allotment 201A2C	27/11/1950 Mercer 32/67	12	52	0	33	s.540/1931	Occupied by Rothwell for last 5-6 years on informal basis: paid rent and recently rates, wants secure tenure through formal lease. Opposed by Rore Erueti on behalf of owners. Dismissed.
Manuaitu B6	6/6/1951 Mercer 32/204	@40	237	2	00	Neglect to farm	Owners not notified. Morgan Inia pays rates on land, he lives in small cottage on part. No rate charging order. Passau: only small area used by Inia, rest in teatree. No fencing except Morgan's fence. Noxious weeds on road frontage and in open areas. Too small for economic holding, must be worked with adjoining land. Adjourned till next sitting to enable owners to be notified.
Manuaitu B7	27/11/1950 Mercer 32/73-80	153	80	1	16	s.540/1931	38 notices posted, 15 returned. Unpaid C/O (1938) and two years unpaid rates – together £19/18/11; County: unoccupied, noxious weeds, unfarmed; fenced cemetery on block; 20 acres in grass 'scattered'. Owners: Meeting at Motakotako when notice received, resolved to lease area for 6 years to adjoining farmers with no rental in exchange to clear land and pay rates. Court: 'I think that it is the real interests of the owners that the land should be in the hands of the Maori Trustee for leasing'. Order made.
Manuaitu B8A	6/6/1951 Mercer 32/205		5	0	00	Unoccupied	A reserve, dealt with B8B below, order made.
Manuaitu B8B	6/6/1951 Mercer 32/205	36	205	0	00	Unpaid rates, unoccupied, noxious weeds	Could only get 3 addresses, not returned. No charging order. Passau: no building, no fences, no stock, in second growth and manuka, scattered noxious weeds. Should be farmed with adjoining land. Order made – note: this land should be dealt with with adjg land so as to provide economic areas.
Manuaitu B9	6/6/1951 Mercer 32/205		117	0	00	Unpaid rates, unoccupied, neglect to farm, noxious weeds	Many owners, sent notice to 9, 1 returned. One owner writes agreeing to lease by Maori Trustee. Passau: no buildings, no fences, no stock - totally unimproved. Has road frontage. Area too small to be farmed by itself. Order made - 'it is evident the three blocks 6, 8, 9 & 10 should be amalgamated for alienation and farming'
Manuaitu B10	6/6/1951 Mercer 32/206	@100	165	2	00	Unpaid rates, neglect to farm	Sent 14 notices, 4 returned. Passau: can only be farmed with adjoining land - wholly unimproved. Brown brothers of Te Mata might take land. One owner present: owners will consider. Order made (see above).
Manuaitu B11C	6/6/1951 Mercer 32/207 2/12/53 p.233	39	298	1	00	Unoccupied, neglect to farm	Had 18 addresses, 13 returned. One year's rates only owing. Hera te Pura paid rates, now deceased. Almost wholly in virgin bush - good millable timber. Small road frontage. If land to be farmed should be farmed with 11D1 & 11D2. No order. December 1953: 'and other Manuaitu Blocks' county consent to dismissal of applications as land cannot be leased by MT. Dismissed.
Manuaitu 11D1A	6/6/1951 Mercer 32/207		3	1	02	Unpaid rates	Owners notified. A partition, a housing site, should be cancelled. Adjourned with 11D2.
Manuaitu 11D1B	6/6/1951 Mercer 32/207		83	0	16	Unpaid rates, neglect to farm, noxious weeds	Passau: could not find partitions of 11D and examined as one block – 320 acres. 30-40 acres along road frontage where Bostons live – where they have several cottages. Noxious weeds in open country. Adjourned with 11D2.
Manuaitu 11D2	6/6/1951 Mercer 32/208	41+	234	0	10	Unpaid rates, noxious weeds	June 1951: Sent notice to 8 owners, one returned. Adjourned to next court pending enquiries as to disposal of timber and use of land.

	11/3/1953 Mercer 33/114						March 1953: Bush covered/'good milling bush' 'no occupation other than squatters who may have some title'. Weeds in open areas. Order made - note 'land bush clad & MT should examine with idea of making the area or part of it a bush reserve.'
Moerangi 1B2A1 and 1B2A2	20/6/1957 Mercer36/212						noxious weeds objectors present land part of development scheme, handed to existing owners, not farmed at all for last few years. Would make a really good mixed farm. Owner: I have not been able to arrange a tenure with my brother, without it I cannot stock property. He wants the order to get tenure. Order made. MT will give owners first opportunity to take a lease if they can prove their capacity to stock & farm the property'.
Moerangi 3B2A1	6/6/1951 Mercer 32/200		257	2	08	Unpaid C/O (1938, £14.0.11), noxious weeds, neglect to farm	Notices sent: 'one appears to have reached one owner'. Still listed as 3B2A on rating roll (partition was made in 1938). Passau: land occupied by two families, not farming. 'Terewai has just a ponga whare. Nita's place is of corrugated iron - one big room.' Poor fencing, one acre fenced for cultivation. About 200 acres in millable bush, rest fern (infested with ragwort). Has road access. Whole block should be worked as one area. Good class of soil - 'should be farmed & producing'. 'Terewai has just a ponga whare. Nita's place is of corrugated iron - one big room'. No objection. Order made -note land should be alienated with A2.
Moerangi 3B2A2	6/6/1951 Mercer 32/202						No addresses, no notice, no owners present. No objections. Considered together with 3B2A1 above. Order made.
Moerangi 3B2C2	6/6/1951 Mercer 32/203 11/3/1953 Mercer 33/118	14	462	0	00	Unpaid C/O (1938, £24.17), unoccupied, neglect to farm	June 1951: Notices reached six owners. No buildings, no fences, no stock, wholly in millable bush, has road frontage. ME Thomson, owner, says thinks family will sell or lease. Adjourned to October to enable owners to make arrangements. March 1953: Large area of bush should be left in meantime. Vesting order not suitable. Inspection should be made with a view to incldg area in Kawhia Development Scheme. Adjourned to June. Land formerly proclaimed under 1936 Act but nothing done. Order made.
Moerangi 3D1	11/3/1953 Mercer 33/119 2/12/1953 Mercer 33/234	5	430	0	00	Unoccupied, neglect to farm	County: fronts Kawhia harbour, unused, should be farmed and would make a good sheep farm. Prinicpal owner Ruihi Kauki writes consenting to order. Maihi, adjoining owner would take lease. Order made. Dec 1953: application by county for cancellation of order: rates paid, one owner writes that land will be used by owners, prospect of sale to Maihi. Court: no justification for cancellation shown. If sale proceeds cancellation may then be justified. Adjourned.
Ohiapopoko 2B2	2/12/1953 Mercer 33/235	47	78	3	28	Unoccupied, neglect to farm	Order made. 'Maringirangi says she will take over shares of Rarangi & Witoria & apply for partition and occupy land. If she does may apply for cancellation'
Ohiapopoko 4A	2/12/1953 Mercer 33/236	76	124	1	30	Unoccupied, neglect to farm	notice by advertisement, order made
Ohiapopoko 4B	2/12/1953 Mercer 33/236	76	125	3	38	unoccupied, neglect to farm, noxious weeds, unpaid rates	notice by advertisement, order made.
Pirongia 285	6/12/1954 Mercer 34/156					Unoccupied, noxious weeds	Two-thirds in dense native bush. No one living there. Could be used with 289. Should be left in native state, too steep for development. No road access. Owners tried to arrange sale to neighbour Redfern. I suggest cleared land only be leased, balance declared non-rateable. No Maoris living anywhere near this block. Order made - rent to be not less than £5pa, lessee not to cut or interfere with 80 acres of bush & owners have right to sell this at any time.
Pirongia 289	6/12/1954 Mercer 34/156		70	0	00	Unoccupied, noxious weeds,	Considered with 285. No road access for both. All of 289 could be farmed. Order made - rent to be not less than £10pa.

						neglect to farm	
Rakaunui 1B	20/6/1957 Mercer 36/358		14	0	00		Notices sent only last week, & not quite in time. Adjourned.
Rakaunui 1C2A	Mercer 33/146	1				Cancellation of s.34/1950 order	T Waretini: sole owner is selling land to me. Adjourned to enable completion of sale.
Rakaunui 1C2B1B	13/3/1951 Mercer 32/144	1				Unoccupied, noxious weeds	Sole owner present 'agrees land is unused'. Order made.
Rakaunui 1C2B1B1	20/6/1957 Mercer 36/216 2/12/1957 Mercer 36/357						Refers to block being subject to earlier order, then released when development loan was granted. Occupied by owners, 'dwelling is home-made, no other buildings'. 'There would be keen competition for this land if thrown open – good quality land, very easy to work.' Adjourned 6 months to enable owners to clear up noxious weeds, pay rates & bring into production. December 1957: rates not paid and no action taken to clear noxious weeds. Owners not notified. Adjourned to give owners notice.
Rakaunui 1C2B1B2	7/6/1951 Mercer 32/212 11/3/1953 Mercer 33/120 20/6/57 Mercer 36/216 2/12/1957 Mercer 36/357	1	36	1	35	unoccupied, neglect to farm, noxious weeds	March 1951: Adjourned to next sitting. June 1951: Sole owner applied for development assistance from Dept. Application submitted to Board – no reply yet. Adjourned to next sitting – owner to have paid rates and made progress. March 1953: unoccupied, covered in gorse, burnt every 2-3 years. Land should be farmed. Order made. June 1957: considered with other Rakaunui blocks. Owner present objects. Adjourned for 6 months to enable owners to clear weeds and pay rates. December 1957: rates not paid and no action taken to clear noxious weeds. Owners not notified. Adjourned to give owners notice.
Rakaunui 1C2B3/5			29	0	09		
Rakaunui 1C2B3/6	13/3/1951		36	2		Unpaid rates, unoccupied,	
Rakaunui 1C2B3/7	Mercer 32/143		37	2	12	noxious weeds,	
Rakaunui 1C2B3/13			82	3	00	neglect to farm	7 notices sent, 1 returned. All 1C2B3 blocks have the same owners. No rates paid for years. Passau: good country infested with gorse. No fences, no stock, Order made – suggested land be dealt with in one block but where blocks combined partitions should be cancelled before lease granted – otherwise compensation for improvements will fall heavily on one or other of the subdivisions.
Rakaunui 1C2B3A & others.	20/6/1957 Mercer 36/216						June 1957: Evidence seems to relate to 1C2B1B1 & 1B2, which applications are adjourned. Order made 'in respect of all other blocks'.
Raoraokauere A2	13/3/1951 Mercer 32/144	22	97	1	17	Unpaid C/O (1939, £7/12/5), unpaid rates, unoccupied, noxious weeds	3 of 22 owners notified, none present. Good volcanic loam, 15 acres in grass, rest gorse. Adjoining owner would like to lease. Was formerly leased to Phillips, now reverted. Order made.
Te Akau B10	12/3/1951 Mercer 32/129		20	0	00	Unpaid C/O (1937, £2.0.1), unoccupied, neglect to farm	Only 2 notices appear to have reached the owners. No owners present. Called Te Puia Hot Spring reserve. Unfenced and grazed by adjoining owner, frontage to unformed access road. Order made

Te Akau B11	20/6/1957 Mercer 36/208 2/12/1957 Mercer 36/353		100	0	00	Neglect to farm, unoccupied	June 1957: Two objectors present. Block on coast north of Raglan. County: unformed legal road. 30 acres could be farmed, balance eroded, no topsoil or vegetation. Either adjoining owner would like to lease. No noxious weeds. Tribal fishing ground. Court: grazing of horses of no moment, but Maoris fishing rights should not be denied them. Restriction on alienation. If an order is within court's jurisdiction, any alienation by MT should reserve to Maoris access from road to the coast. Adjourned. December 1957: County argues court has jurisdiction to remove restriction on alienation. Adjourned to next sitting.
Te Akau B12B	12/3/1951 Mercer 32/130		906	2	08	Unoccupied, neglect to farm	Half in ti-tree, balance rough grass, no noxious weeds. Good limestone country, whare on land, some horses & cattle. Owners: we live nearby and graze the land. 'Agree land should be farmed but have no money to do it'. Order made
Te Akau B12E	2/12/1953 Mercer 33/233						dismissed - land not capable of alienation at present
Te Akau B12G	2/12/1953 Mercer 33/233						dismissed - land not alienable
Te Akau B12I part	11/3/1953 Mercer 33/120	5	51	0	00	Unoccupied, noxious weeds	Report: unused, totally unimproved. Only capable of use in part. It appears that it should be sold and not leased. Adgj occupier KGTennent would take lease or buy. Order made.
Te Akau B12K	6/6/1951 Mercer 32/203	1	324	0	26	Unpaid rates, unoccupied, neglect to farm	Sole owner sent notice, not returned. Two years rates outstanding. Passau: no buildings, no fences, no stock, poor quality land. Stunted tea tree and fern - fairly clear of weeds. Fronts paper road, no formed access. Could be worked with adjoining land B12L. Difficult to get anyone to take up. Order made – Maori Trustee to consider alienation with B12L with which it should be farmed.
Te Akau B12L	12/3/1951 Mercer 32/131	@20	676	3	18	Unpaid C/O (1938 - £33.18.11), unoccupied	5 notices not returned. Land in manuka with some bush in gullies. Little ragwort, not bad, no fences. Access by unformed road, nearest metalled road 1 mile away. Order made.
Te Akau B15B2	12/3/1951 Mercer 32/132						Withdrawn – land has been partitioned and each must be dealt with individually (see below). June 1951: Struck out pending survey of land partitioned.
Te Akau B15B2A1A	2/12/1953 Mercer 33/233	1	468	0	20	Unoccupied, noxious weeds	Owner cannot be found. Notice by advertisement. Order made
Te Akau B15B2A1B	2/12/1953 Mercer 33/234	6	468	0	20	Unoccupied, neglect to farm	3 of 6 owners are minors, 1 owner in court. 70 acres fern, balance bush. Owner: have bach on land, not far from beach. Had some stock but sold them. Order made.
Te Akau B15B2B2	2/12/1953 Mercer 33/235	59	434	1	39	Unoccupied, neglect to farm	Notice by advertisement. T Te Whare present: know Anatipa family, Te Ata Anatipa main owner - proposes to lease to me. Order made
Te Akau B15B2C2	2/12/1953 Mercer 33/233	27	796	0	28	Unoccupied, neglect to farm	1 owner present. K Wahanga agrees land not farmed. Order made - KR Wahanga 'will try to arrange for partition & occupation & will then apply for cancellation if court satisfied with his proposals.'
Te Akau D3B3B	12/3/1951 Mercer 32/132	3	98	1	20	Unpaid C/O (1938 - £5.0.3), noxious weeds, unoccupied	3 owners, 1 notified. Stock roams from adjoining land. No buildings. Poor land, cannot be worked by itself. Should be leased by adjoining owner. Order made.
Te Akau D16B2B2	12/3/1951 Mercer 32/133	13	906	0	00	Unpaid rates, unoccupied, neglect to farm	No communication from 13 owners. Wholly unimproved, only stock are what come on from adjoining land. Wapp & Dufaur interested in leasing. Sheep country, good county should be farmed. 'The three owners would like to farm an area representing their family interest'. Order made – 'owners may make representation to Maori Trustee for an area for them'.

Te Kopua 2B2B2B	20/6/1957 Mercer 36/210 2/12/1957 Mercer 36/355		55	0	00	noxious weeds, neglect to farm, unpaid rates	June 1957: 12 objectors present. Residue of land taken for aerodrome. Baches, urupa, home nearby with milking cows, and various owners use for grazing. Court: 'there is a degree of occupancy but owners must sink their personal differences & work together to bring land into full use.' Adjourned for meeting of owners. December 1957: dissension among family over land. Some would welcome MT lease to get tenure, others favour incorporation. Rickards cleared 10 acres for cropping. Palmer (MA): The only persons who have made any attempt to use the Blk are Mr & Mrs Rickard and they deserve first consideration; I favour an order under sec.387 as agreement by the owners seems improbable. Bach site holders would have to pay rent to MT. Family arrangements appear to have been made but not perfected by Court Orders. Order made - with recommendation that first consideration be given to Mrs Rickard.
Te Pahi A1	13/3/1951 Mercer 32/141		220	0	00	unoccupied, neglect to farm	No notice since October – 19 sent, 11 returned - but Turei has been in touch with several owners. Turei: asks that all Te Pahi blocks be dealt with together. Passau: land suitable for grazing run. Some noxious weeds but mainly titree, and in gullies second growth bush and ponga. Turei: Whare Moke would like lease of whole block. He will apply to Maori Trustee. Order made - land should be leased in one block and possibly Partition orders cancelled.
Te Pahi A2			118	0	00		
Te Pahi A3			377	0	00		
Te Pahi B1			64	0	00		
Te Pahi B2			197	0	00		
Waipa 61A²¹			255	0	00		
Waipa 61B²²			228	0	00		
Waipa 62A2B	14/6/1961 40Mercer87						63F4B occupied. Palmer (MA) ... it is hoped to do consolidation and title improvement work in connection with these Waipa blocks. Partitions offer a very real handicap to any successful utilisation of the land, some have no road access, small and uneconomic in what is predominantly sheep and cattle grazing area. 63D for example is only 27¼ acres another approximately 44 acres miles back in bush without access; at least 6 or 700 acres required for economic holdings. Many Partition Orders would appear to require cancellation, many interests would be uneconomic, Department is hopelessly handicapped by the title position. ... I sympathise with County's efforts but owners without capital and badly in need of Departmental assistance. Some limited farming going on, but resources limited. ... It is very difficult to envisage how these Partition lines could have received Court's approval – not only the owners but also the County Council carrying out its duty as quasi trustee for its ratepayers and also the Department in trying to assist the owners have a legacy of unworkable areas. No good purpose would be served by making Orders under Pt XXV as titles not in order and leases...
Waipa 62A4							
Waipa62B2A							
Waipa 63D							
Waipa 63F4B							
Waipa 63F5B1							
Waipa 63F5B2							
Waipa 63F5B3							
Waipa Lot 63B	6/12/1954 Mercer 34/158 22/4/1955 Mercer 34/249		115			Neglect to farm, noxious weeds	Dealt with Lot 64A below.

²¹ Listed as vested in Auckland Office to Maori Trustee Wellington, 18 December 1951 AAMK (doc:17)

²² Listed as vested in Auckland Office to Maori Trustee Wellington, 18 December 1951 AAMK (doc:17)

Waipa Lot 64A	6/12/1954 Mercer 34/158 22/4/1955 Mercer 34/249	@100	3083				Notices sent to 73 owners. 1500 acres in bush, it would be millable, operating mill on the block, road put in and royalties paid. Balance in second growth manuka and weeds, 1/3 area has farming potential. Court: referred back to Dept. to reconsider development: 'It is a large block with other large areas of Maori land near it. If the Dept. after consideration is unable to offer any prospects of development within (say) 5 years an order will be made.' County to have regard to other Maori lands in the area which could be leased with 64A. Also want further info regarding milling arrangements. April 1955: position still unsatisfactory as to what development section intend to do about the block. Richardson who mills on the property is ready and willing to take a lease of the whole or portion of the total area of 3198 acres. Adjn to next sitting.
Waipa Lot 66B3Cpt/36	22/4/1954 Mercer 34/250						Reference made to 3 other applications made for Waipa blocks with timber. Adjourned to be considered with above Waipa blocks.
Wahaanga 1B2C1	7/6/1951 Mercer 32/212 11/03/1953 Mercer 33/121	2	3	2	16	Unpaid C/O (1938, £1.4.), unpaid rates, unoccupied	No notice to owners, 1 deceased. Passau: land completely unoccupied, on seaward side of road. No use for farming but would let readily for seaside cottage, noxious weeds not bad. Adjourned to enable notice to owner. March 1953: land is not used, no one lives there, no rates. 'There is demand for this land'. Order made.
Wahaanga 1B2C2A²³			21	0	26		
Wahaanga 1B2C2B²⁴			111	3	20		
Wahaanga 1C2A²⁵							
Wahaanga 1C2B1	6/6/1951 Mercer 32/209	6	51	3	04	cancellation of order 540/1931	Owner Kuru Riki: I have paid all rates, chopped 5 acres tea tree, grassed 2 acres, cut weeds. At back there is good bush & should be left for timber. Have 12 heifers – which will come into milk 1952. Have no lease from other owners, will only lease if necessary. Inspection to be made, adjourned till next sitting.
Wahaanga 1C2B2²⁶							
Wahaingaroa Pt Allot 88	2/12/1953 Mercer 33/236	1	6	1	11	noxious weeds, unoccupied	two titles, same owner (see 87A below). Small building unused. Adjg owner might take it one lease & clean it up. Order made.
Wahaingaroa SD Blk VII Sec 4B	12/3/1951 Mercer 32/134	9	75	0	00	Unpaid C/O (1938, £19.5.4), unpaid rates, unoccupied	No communication from owners – 3 present. County: Joe Ponga lives on part of block, land grazed by sheep & cattle, stock come in from adjoining land. Little blackberry, mostly rough feed, fern and manuka. Old whare on land, not used, no cultivation. H Kaa: would like to take lease of land. Order made.

²³ Listed as vested in Auckland Office to Maori Trustee Wellington, 18 December 1951 AAMK (doc:17)

²⁴ Listed as vested in Auckland Office to Maori Trustee Wellington, 18 December 1951 AAMK (doc:17)

²⁵ Wahaanga 1C2A, 1C2B1, 1C2B2 treated together, 170 acres, 2 roads, listed as vested in Auckland Office to Maori Trustee Wellington, 18 December 1951 AAMK (doc:16)

²⁶ Ibid.

Whaingaroa SD Blk VII Sec 4C	12/3/1951 Mercer 32/135		62	2	00	Unoccupied, neglect to farm	Sole owner deceased, no succession. Order made.
Whaingaroa SD Blk VII Sec 4D	12/3/1951 Mercer 32/135		62	2	00	Unoccupied, neglect to farm	Notices probably not received by owners. Rough cottage occupied by one Solomon, not being farmed. Order made – 'It appears to be desirable that the 3 sections (4B, 4C, 4D) should be leased to one lessee. Occupation of those in cottage to be considered'
Whaingaroa Sec 87A	2/12/1953 Mercer 33/236	1	1	3	11	noxious weeds, unoccupied	Two titles, same owner (see 88 above). Unused. Adjg owner might take it one lease & clean it up. Order made.

Waitomo County Council applications

Block name	Hearing date/MB reference	No. owners	a	r	p	grounds	Evidence in court/outcome
Aorangi 3A	22/2/1956 Oto 80/287		93	2	00	Noxious weeds, neglect to farm	Application withdrawn – rates paid, lease pending. Struck out.
Aorangi 3C1	22/2/1956 Oto 80/287					Noxious weeds, neglect to farm	Application withdrawn – rates paid, lease pending. Struck out.
Aorangi 3C2	22/2/1956 Oto 80/287 14/5/1957 Oto 81/143		70	0	00	Noxious weeds, neglect to farm	Adjourned, lease pending, rates to be paid. (48) May 1957: struck out by request.
Aorangi B3D2A2	2/11/1962 Oto 85/180		77	2	00		Struck out for non-prosecution. Block is one of many under scheme.
Aorangi B3D2A3	22/2/1956 Oto 80/287		76	1	00	Noxious weeds, neglect to farm	Application withdrawn – rates paid, lease pending. Struck out.
Aorangi B3D2A4	22/02/1956 Oto 80/287 14/5/1957 Oto 81/143		74	2	00	unpaid rates, noxious weeds	Notices posted 13/2/56, informed last year also. Court: Application adjourned to next sitting – specific notice by registered post to all owners who can be located. May 1957: struck out by request.
Aorangi B3D2A5	22/02/1956 Oto 80/288 14/5/1957 Oto 81/143		78	1	00	Unpaid rates, noxious weeds	Ross: notices posted 13/2/56, nominated occupier P Whareaua – good farm land going to waste. Application adjourned - insufficient notice May 1957: struck out by request.
Aorangi B3D2A7A	22/02/1956 Oto 80/288 14/5/1957 Oto 81/143		103	2	00	Unpaid rates, noxious weeds, neglect to farm	Sole owner present. ½ in grass, former dairy unit. Property occupied by son-in-law. Old home and cowshed used by occupant, road access not easy. Owner: I moved into Te Kuiti 1941, farm has been occupied by various children since then. I have applied 3 times to court to gift land to my son. Asks for adjournment. Adjourned 3 months. May 1957: struck out by request.
Hingarangi Kauri 2	22/2/1956 Oto 80/287		43	3	10	C/O £22.18.1	Withdrawn at request of county.
Hingarangi Kauri 3D	22/2/1956 Oto 80/287 21/05/1956 Oto 80/292		22	1	6	C/O £55.8.9	Feb 1956: Adjourned at county's request. May 1956: Adjourned at last sitting, payment promised not kept. Hine for owners: I consent to orders on understanding no further order for 6 months. C/O granted for £59/10/3 being 2 years rates plus penalty on both plus costs.
Hingarangi Kauri 3E2	22/2/1956 Oto 80/287 21/05/1956 Oto 80/292		7	1	6	C/O £12.3.6	Feb 1956: adjourned at county's request. May 1956: adjourned at last sitting, payment promised not kept. Hine for owners: I consent to orders on understanding no further order for 6 months. C/O granted for £13.0.6 being 2 years rates plus penalty on both plus costs.
Kaingaika A10	14/11/1951	1	64	3	25	Unpaid C/O (1935,	Elliot for owner: KM Anderson has funds to pay charging order. Asks for one week adjournment to pay.

	Oto 77/146					£31.11.0)	Granted.
Kaingaika A17	22/02/1956 Oto 80/289					unpaid C/O, unoccupied, neglect to farm	Order in Council 7/5/1937 prohibiting alienation. ²⁷ Owners not present. Ross: has never been occupied or farmed properly, a fairly good property. Order made.
Kaingapipi 11G2	19/02/1954 Oto 78/340 18/8/1955 Oto 79/38		15	1	32	C/O for £9.3.11; noxious weeds, unpaid rates	No owners present. Third scrub, blackberry, rest in native grass. Some owners put stock on land. County: I will also ask for order under sec 34(2)/1950. Rate charge order and vesting order made. Aug 1955: application for cancellation, rates have been paid, no alienation. Order cancelled.
Karu o te Whenua 3D2			168	2	00	Unpaid C/O	Notified 30/5/1951. Aug 1952: adjourned at county's request, 'as partial settlement has been reached'. ²⁸
Karu o te Whenua 3D3A			336	3	30	Unpaid C/O	Notified 30/5/1951. Aug 1952: adjourned at county's request, 'as partial settlement has been reached'.
Karu o te Whenua 3D3A2	13/2/1953 Oto 78/39	4	231	1	30	Unpaid C/O (£59.15.3), unpaid rates, neglect to farm	Owners notified on 4/2/53, none returned. Timber has been sold, partially farmed, well farmed when father of family alive. Now only farmed for grazing. Road access. Order made.
Karu o te whenua B2B3 & B2B4	19/02/1954 Oto 78/340		773			C/O for £165.12.6	Owners present. Approximately 200 acres grass, balance scrub and fern. House, woolshed, cowshed in need of repair. 17 cows, 500 ewes, Mrs Ratahi occupying, don't know if she is owner. County will accept 2 years rates in full settlement. Tata Royal: I represent my daughter & her cousin – about 180 acres. I want to hold meeting and discuss future arrangements, ask for adjournment. Ct: these rates are past rates and charging order will be made. Charging order made.
Mahoenui 1B2B2	14/11/1951 Oto 77/150	1	187	0	20	unpaid C/O (1935, £32/15/2), unpaid rates	Owner notified. Land grassed and farmed - now going back in fern. Owner wants son on place. Order made unless within 3 months C/O is paid and arrangement for occupation and farming of land.
Mahoenui A2B2 pt	24/02/1950 Oto 76/183		185	2	30	s540/1931	Land is occupied. Withdrawn.
Maraetaua 3B1B							Application for vesting order notified by clerk 23 Jan 1962. ²⁹ Outcome unknown.
Maraetaua 4B1	14/05/1953 Oto 78/149		42	1	24	Unpaid rates, neglect to farm, unoccupied	No owners present. Order made.
Maraetaua 7B	14/05/1953 Oto 78/149	54	56	0	00	unoccupied	No owners present. Order made
Mokau Mohakatino 1D2	19/02/1954 Oto 78/346		148	1	16	unimproved, unoccupied, noxious weeds	No owners present. Hetet: I have seen K Ngatohu who is present and she consents to order. Hayward: situated on unformed Wairoma road. Totally unimproved. Adjoins well-farmed European land, adjoining owner could make good use of it. Do not know owners. To look at it appears never to have been used. Order made
Ototoika A27A	unknown		40	2	36		1952 lease to M Paki. ³⁰ 1968 breach of lease, 1970 Paki sued for backrent.

²⁷ Docs32.

²⁸ County clerk to clerk, Maori Land Court Te Kuiti, 26 August 1952, in 58/01/2 Waitomo District Council.

²⁹ O'Brien to registrar Maori Land Court, 23/1/1962 in 58/01/2 (doc:51)

³⁰ Not found in minute book, based on information in AAMK 869 W3074/402c 12/888 pt.1

Ototoika A28	14/05/1953 Oto 78/149 ?? Oto 78/274		19	3	15	unoccupied, noxious weeds	Heavily infested with weeds. No owners present. Order made. Oto 78/274: application for cancellation, now leased to Tuhea Tere. Order cancelled.
Ototoika B4	14/05/1953 Oto 78/150 10/8/1954 Oto 79/92	18	16	2	11	noxious weeds, unoccupied	Reihana Taheke will buy. Adjourned to August to enable sale. If nothing done order will be made. Aug 1954: With county's consent struck out on understanding that will be regazetted without fee if sale not completed by 1/1/1955.
Ototoika B7	22/02/1956 Oto 80/289		165	3	00		Owner's lawyer ill - adjourned 3 months. NK Boddie interested purchaser.
Pakeho A20			228	3	13	Unpaid C/O	Notified 30/5/1951 (p.12). Aug 1952: Withdrawn at county's request 'as charging order has been paid' ³¹
Pehitawa 2B4C1	25/10/1950		42	2	27		Info in MA1 244 12/942 is very similar to that set out for Pehitawa A10 below. The file shows that the Haereiti proposal to farm the land was supported by Davis, of the Hangatiki Waitomo Tribal Committee. It also shows that the council's stance on behalf of the adjoining Pakeha farmer Collinson-Smith was supported by Broadfoot.
Part Pehitawa A1A			177	1	03	Unpaid C/O	Notified 30/5/1951 (p.12) Aug 1952: adjourned at county's request 'as the owners have not yet been located'. ³² Outcome unknown.
Pehitawa A9	14/05/1953 Oto 78/150	2	41	3	21	noxious weeds, unoccupied	Supervisor's report confirmed. Order made
Pehitawa A10	24/02/1950 Oto 76/181 27/4/1950 Oto 76/191 25/10/1950 Oto 76/302 19/2/1951 Oto 76/378 12/11/1951 Oto 77/39 4/2/1952 Oto 77/183	1	42	2	27	s540/1931 unoccupied, noxious weeds, Unpaid rates	No road access. Owners too old and infirm to occupy land themselves. Te One Haereiti: It is desired owners children should occupy and use land. Order made 'unless owner does by next sitting make arrangements suitable to court for use & occupation of land and payment of rates'. April 1950: application for road line as result of s.540 order, Crown contends court has no power to lay off road line. Stood over. Oct 1950: owner represented - claim matter should wait till road line made through Crown land to give access. Haereiti: we have bought 177 sheep, but can't get them on without access. Questioned about his finances. His brother a farmer with stock - my mother has made her mind up to this - the land is not to be sold or leased & we are all asking for this road to go. Rates: If rate demand came to me on the land at Hangatiki - if they all paid I would pay my share. C.Smith (tenant on adjoining Crown land) wants to purchase, wont consent to roadline. County: it is the height of absurdity to farm this property as proposed. The only thing is to include it with adjoining land. Court: the owners have not complied with the requirements of the court. Order made. Feb 1951: application by owners for rehearing. Smith had agreement to use land in exchange for access. Has sown land and grazed stock on same. Dismissed. Nov 1951: owner application for cancellation of order. Road line made. Arranged son to lease. Adjourned. Feb 1952: Lease granted, lessee in possession & using land. County consents to cancellation if rates paid. Order cancelled.
Pehitawa A14	14/11/1951 Oto 77/148	8	62	3	26	unoccupied, noxious weeds	Owners notified – not present. No road frontage. Adjoining land owner would take lease. No rates paid ever. Order made - not to take effect if at next sitting owners have made arrangements suitable to court for occupation and farming of land.

³¹ ibid³² Ibid.

Pukenui 1B7C	14/05/1953 Oto 78/150	66	177	2	20	noxious weeds, unoccupied; neglect to farm; unpaid C/O (1935, £50/6/7)	Hetet for 2 owners: land not properly farmed and owners will not lease to one of their number. M Ratu another owner might take lease. By consent of those present, order made.
Pukenui 2G sec1	24/02/1950 Oto 76/184	1	51	0	28	s540/1931	Owner present. Formerly farmed, now infested with noxious, no occupation. Owner: have been keeping this land for returned soldier son. Court: Toni & son must decide as to use & occupation of land. Unless arrangements for farming land suitably before next sitting order will be made.
Pukenui B4B	19/02/1954 Oto 78/341 10/8/1954 Oto 79/92		457	0	00	C/O for £51.15.3.	Principal owner died recently, husband has seen county, taking a lease. County asks for adjournment. Adjourned to next sitting. Aug 1954: application for C/O for rates for 1953/54. Demanded from occupier, one of the owners. He recognised he had to pay the rates. Land is going back to scrub. MA supervisor: it was nearly 1000 acres which came back to owners in bad state. If owners approached Dept something might be done but best parts are gone now. Hetet: there is no Maori who will farm the land. It should preferably be leased or sold. Charging order made.
Pukenui B4D	19/02/1954 Oto 78/342, 345		100			C/O for £61.7.7.	Lease to European expired in 1951, rates stopped. Most of the area in grass, with owners running stock on it. Owner: about 4 owners running stock, I will arrange to pay rates. I can pay now. County: upon this undertaking I consent to adjournment adjned to next sitting. Later that day: county: rates have now been paid. Application dismissed.
Pukenui B4E	19/02/1954 Oto 78/342		153	3	8	C/O for £68/16/4	Hetet for owners. Charging order made.
Pukenui B6	24/02/1950 Oto 76/183	1	51	1	26	s540/1931 noxious weeds, unoccupied, unpaid rates	owner present farmed 20 years ago, no buildings now. Owner: wants land for her son, will try to arrange for occupation by son and sell some interests to provide finance. Adjned till next sitting
Pukenui B14B	14/11/1951 Oto 77/149 11/8/1953, Oto 78/179 18/8/1955 Oto 79/38	1	113	1	Oo	unpaid C/O (1935, £54/15/0), unpaid rates	Owner notified. Good land in grass, farmed by owner for many years - dairy and sheep. Order made - MT to execute alienation of land excluding the house on the land. Note: occupier written & asked to pay rates and apply for cancellation. Now paid. Aug 1953: application for cancellation. Owners made proposals for use of land. To stand over till owners show lands is being farmed. Aug 1955: application for cancellation, rates have been paid. Order cancelled.
Pukenui B20			57	0	00	s540/1931	MT files – vested 11/10/1949. No road access.
Pukenui B21			107	1	00	s540/1931	MT files – vested 11/10/1949. No road access.
Pukenui B30A & B30B	19/02/1954 Oto 78/345		67	2	29	Unpaid C/O, unpaid rates	One owner present, Ngatai Ngatai: I would like to lease – I have talked it over with my brothers & sisters. I would like an order. If I got lease I could pay rates. Order made.
Pukenui B31	18/08/1955 Oto 80/40					appln for cancellation of order	vested in error in MT under Part XXV. It was supposed to be B32. There are 2 houses on B31, county wants cancellation of previous order. Order cancelled
Pukenui B32 part	19/02/1954 Oto 78/343 10/8/1954 Oto 79/92 18/08/1955 Oto 80/39		45	3	17	C/O for £25/13/6 and s.34(2)/1950; unpaid rates, neglect to farm, unoccupied.	Hetet for owners: we agree to both. Orders made. Aug 1954: (area now 23 acres). Court: Adjourned 3 months to enable payment of rates on these blocks. The titles are in great confusion and should be surveyed. Aug 1955: (area now 49 acres). One owner present. County: there has been a little confusion owing to the fact that the titles were altered on consolidation. Has been advertised/notified as B31. Court asks owner present if anyone has been prejudiced by confusion. Order made on all grounds.

Pukenui B33	19/02/1954 Oto 78/347		66	0	00	Unpaid C/O (1935, £30/8/4)	Hetet: on behalf of owners I consent to order. Order made
Pukenui B35A	19/02/1954 Oto 78/347		12	0	00	unpaid C/O	Hetet: on behalf of owners I consent to order. Order made
Pukenui B35B	19/02/1954 Oto 78/347		85	2	25	unpaid C/O	Hetet: on behalf of owners I consent to order. Order made
Pukenui B37	19/02/1954 Oto 78/343		27	0	00	C/O for £17/6/8 and s.34(2)/1951	Hetet says owners agree to both. Orders made.
Pukenui B38	19/02/1954 Oto 78/343 10/8/1954 Oto 79/93 22/2/1956 Oto 80/289	1	45		27	C/O for £68/16/7;	Hetet for owner: Owner consents to charging order. Tame Kiore sole owner says he cant pay and shouldn't pay. Has 100 sheep on credit. Adjourned to enable county to consider other action Aug 1954: Application for charging order. Tame Kiore - there are neighbours' sheep, cattle and horses on land. He doesn't pay rent, I refuse to pay rates. I live on land. 1/2 chain from road. Court: you will lose your land if you don't pay - don't be silly. Charging Order made. Feb 1956: application under Pt XXV. Sole owner has always refused to pay rates - warned by court that he must do so. Kiore farms land with adjoining owners possible on a share basis. Block is one of many adjoining blocks vested in MT under Sec387. Hetet: Kiore lives there with wife and family, should like his occupancy of house and say 2 acres with road access to be safeguarded by MT. Order made - MT recommended to safeguard to owner and his wife for their joint lifetimes occupation of house & 2 acres with road access
Pukenui B41	22/02/1956 Oto 80/290 14/2/57 Oto 81/99		69	2	2	unimproved, unoccupied, unpaid rates	No access. All owners except Kiore & his family were willing to lease, but he stood out, surrounded by good European farms, no access. This land is grazed by European, Hunt, not paying grazing, we want to sell but Otimi & others refused any alienation. We prefer to sell but cannot get 34 owners to agree. Adjourned to next sitting, owners to try to arrange lease or sale in meantime. Feb 1957: Struck out at county's request.
Pukenui B45	14/05/1953 Oto 78/151 11/8/1953 Oto 78/179	1	25	0	00	Unpaid C/O (£9/1/9)	Occupied by D Rawiri who has adjoining land - he would farm it if he had proper tenure. Adjourned to August to enable lease. If nothing done order will be made. Aug 1953: County: land leased, application withdrawn. Struck out.
Pukenui B46	14/05/1953 Oto 78/151	23	72	1	00	Unpaid C/O (£25/16/2)	D Rawiri in occupation. Same as above case. Would farm land if he could get proper tenure. Order made.
Pukenui B49	14/05/1953 Oto 78/152		77	0	00	Unpaid C/O (£25/0/2)	D Rawiri occupier, one of the owners, lives and dairies on land, wants better tenure. Owners scattered, notices sent to them. Order made. Lease to exclude 2 cottages occupied by Ta Ruahi Matehaere
Pukeroa Hangatiki A23	18/8/1955 Oto 80/38 22/2/1956 Oto 80/287 14/02/1957 Oto 81/99 14/5/1957 Oto 81/143						Aug 1955: county asks for adjourned. Adjourned. Feb 1956: county: one owner to take over – adjourned on county's request. Feb 1957 county asks that it be struck out. Phillips for owners all but one have signed an exchange application so that land will vest in one owner alone. Rates have been paid to date, by one owner. Adjourned 7 days. T Koroheke: I am party to exchange. I have paid rates to Waitomo County Council to date. I undertake to clear land when I become owner & will erect dwelling and will keep 3½ acres clean after urupa cut out. May 1957: struck out by request.
Pukeroa Hangatiki A60	18/8/1955 Oto 80/38						Adjourned.
Puketiti 2B2C	22/02/1956 Oto 80/290		40	3	21	unpaid rates.	Ross: attractive to adjoining owners. Order made.

Puketiti 5B2	14/5/1953						Notified for application 19/12/1952. ³³ Adjournment of application noted in file, (97). Outcome unknown.
Purapura 2D3	18/8/1955 Oto 80/38						Adjourned.
Rangitoto A14A	6/11/1952 Oto 77/351						Land sold to CS Sutton as to all interests other than one who cannot be located. Order made appointing Maori Trustee to alienate this remaining interest by way of sale.
Rangitoto Tuhua 33B3A2	4/2/1952 Oto 77/164 6/11/1952 Oto 77/349						Adjourned to next sitting to enable sale of land. Nov 1952. Land is owned by A Cowan as to all interests other those of 3 owners who cant be located. Cowan wants to complete title. Order made for sale.
Rangitoto Tuhua 33C3B3A1	10/8/1953 Oto 78/174					Cancellation of order s.34/1950	Order made 77/377 to alienate 33C3B3A. This had already been partitioned in A1 2:2:04 and A2 balance. A1 now being sold to R Anderson and transaction confirmed.
Rangitoto Tuhua 57A2C	18/02/1955 Oto 79/243		174	3	00	unoccupied, noxious weeds, neglect to farm	Hayward: Totally unimproved, good grassed European land on all sides except one. Court: held over for T Waeroa who has sent telegram.
Rangitoto Tuhua 57A2D	18/8/1955 Oto 80/38						withdrawn
Rangitoto Tuhua 57A2L	18/02/1955 Oto 79/243		81	2	33	unoccupied, noxious weeds	Hayward: same condition as adjoining 57A2C. 7 owners notified. Court: supervisor reports that suitable for development but matter cannot be delayed indefinitely. Order made - on understanding that such will be cancelled if within 6 months Dept decides to develop.
Rangitoto Tuhua 57B2C	18/08/1955 Oto 80/38		38	1	15		County asks for adjournment
Rangitoto Tuhua 57B2D	Oto 80/38						Withdrawn at request of county.
Rangitoto Tuhua 61 F2B2B2B	18/02/1955 Oto 79/244		299	3	35	unpaid C/O (1935, £77/11/4), noxious weeds, unoccupied	4 owners notified. Hayward: fairly desirable land - let for cropping, fair amount of titree. 15 acres was disced for turnips and then left. O'Brien: These applications do not come out of the blue - we see the owners & tell them to do something. Order made - on understanding that it will be cancelled if within 6 months Dept decides to develop.
Rangitoto Tuhua 68C2B	14/05/1953 Oto 78/152 12/8/1953 Oto 78/181	1	789	1	24	Unpaid C/O (1935, £40/12/4); unpaid rates, neglect to farm	Land formerly leased and then well farmed. Part of land only now farmed. Dargaville working it, dairying. 80 acres of grass, rest gone back. Order made - with exclusion of homestead and approx. 3 acres surrounding. Aug 1953: application for cancellation of order. Land occupied & arrangements made for payment of rates charge. County: if part being sold & arrangements made for farming county has no objection. Ct: order will be cancelled on completion of arrangement for payment of rates and sale of reverted portion. Note: order final 18/11/53.
Rangitoto Tuhua 70B1B	19/02/1954 Oto 78/344					C/O for £17/6/8 and s.34(2) 1951	House, outbuildings, sheep, one surviving owner, don't know whether occupier is an owner. Orders made. Note: I produce reports from Te Kuiti Office & letter from County asking cancellation. Court 500 sheep – house in good repair etc. Order cancelled.
Tapuiwahine A2	18/08/1955 Oto 80/38						County asks for adjournment

³³ Docs31.

Tapuiwahine A8	14/05/1953 Oto 78/153	16+	76	3	3	Unpaid C/O (£43/6/11), unpaid rates, unoccupied	One owner present. No road access, few weeds. Hetet (for owners): land is occupied by Ngatai Ngatai, adjoining land owner. Adjourned to August to enable completion of lease. If not done order will be made.
Tapuiwahine A9A	14/05/1953 Oto 78/154 14/8/1953 Oto 78/180	1	28	3	19	Unpaid C/O (£15/16/6), unpaid rates, unoccupied	mainly in fern. No fence between A & B. Pohe says he intends to farm. Adjourned to August. Aug 1953: Partition order cancelled, block to again become A9.
Tapuiwahine A12	14/05/1953 Oto 78/155	13	114	3	16	Unpaid C/O (1935, £66/14/1), unpaid rates, unimproved, unoccupied	No stock, mostly fern and scrub. No sign of land being occupied at all. P Te Ruhi: agree with Hayward's statement. Order made
Te Kawa A8	14/05/1953 Oto 78/147 11/8/1953 Oto 78/179 10/8/1954 Oto 79/92	4	129	1	00	unpaid C/O (1935, £41/11/5), unpaid rates, noxious weeds, neglect to farm	One owner present. Not been farmed for years. House on land, unoccupied. Shed not in use. Two houses, some stock, calves on land. Owner: Mrs Morgan lives on land. Adjourned to August. If nothing definite done by then order will be made. Aug 1953: adjourned to November. Aug 1954: struck out on county's application.
Te Kuiti 2B3A1	14/05/1953 Oto 78/148	9	89	0	20	unpaid C/O (1935, £42/12/0), unpaid rates, noxious weeds	One owner present. No access, no occupation under proper tenure. 10 acres bush, no commercial value, ragwort kept under by sheep. Adjoins Dept farm, no fence between neighbouring farm. Order made.
Te Kuiti 2B3A4C			62	1	12	Unpaid C/O	Notified 30/5/1951 (p.12) details unknown
Te Kuiti B10	14/11/1951 Oto 77/147 10/8/1953 Oto 78/178	14	85	2	13	Unpaid C/O (1935, £141/9/9) unpaid rates	Occupier B Wallace represented in court. Valuable land next to borough farmed by Wallace who lives on land and wants lease. Order made. Aug 1953: application for cancellation. Land occupied by Wallace who has paid part of rate charge and arranged for payment of balance. County agrees to cancellation. Order made.
Te Kuiti B4	14/11/1951 Oto 77/146	1	62	1	12	Unpaid C/O (1935, £29/19/7), unpaid rates, neglect to farm	No objection. Order made.
Lot 2 Te Kumi 10A							Vesting order granted Feb 1950. ³⁴
Te Kumi A22	Not found	3	10	0	00	Unoccupied, noxious weeds	Application notified 23/1/1962. ³⁵ H Koroheke, says brother would occupy land and sister did not want land alienated. Order made. ³⁶
Te Uira A2	14/05/1953 Oto 78/155	8	55	1	00	Unpaid C/O (£32/6/8), unpaid rates, noxious weeds	Mainly in grass. Stock there, not owners stock. Fenced. Order made.

³⁴ County clerk to Maori Trustee, 29 May 1951 (doc:11)

³⁵ O'Brien to registrar, Maori Land Court, 23 January 1962, in 58/01/2 (doc:51)

³⁶ Info in AAMK 869 W3074/406b 12/1207 pt.1

Te Uira A4	24/02/1950 Oto 76/182	6	26	2	5	s540/1950, noxious weeds, unoccupied	1 owner present. Uneconomic farming unit, no access. Owner present supports lease. Order made.
Te Whetu A1B	14/05/1953 Oto 78/156	2	338		23	unoccupied, noxious weeds	Totally unimproved, poor country, no one living on land. Order made.
Te Whetu A4B	14/05/1953 Oto 78/156 4/5/1955 Oto 79/296	2	52	1	37	unoccupied, noxious weeds	No notice served, addresses not known. Owners not known in this district, absentees. Derelict piece of land. Order made. May 1955: county application for cancellation. Order cancelled subject to right of County or MT to ask for reinstatement if sale No.18098 not completed.
Umukaimata 3B1A	19/02/1954 Oto 78/344 10/8/1954 Oto 79/92	1	234	3	18	noxious weeds, unpaid rates, unpaid C/O	Hine, agent for sole owner. Asks for adjournment, has two sons in early 20s he wants to put on block and has applied to MA for development finance. Adjoining owners anxious to lease or buy. County: Owner has promised payment of rates a number of times but not done so. County has no faith in his promises. Sons can get a lease from MT. Court: in view of fact that charging order is an old one, the owner will be given opportunity satisfying the Court his efforts are bona fide. Adjourned to next sitting. Aug 1954: application adjourned 3 months - sale projected.
Waitomo A24 part			105	1	08	Unpaid C/O	notified 30/5/1951. ³⁷ Aug 1952: Waitomo A24A1 adjourned at county's request 'as charging order has not yet been allocated over the subdivisions of the block.' ³⁸ Cancelled 14/5/1953. ³⁹
Waitomo A30	24/02/1950 Oto 76/182 19/2/51 Oto 76/379		39	0	00	unoccupied, noxious weeds. Unpaid rates	Benefitted from Mangapu drainage. Order made 'unless before next sitting owner has arranged for occupation of land. Note: adjourned to July sitting pending arrangement sale by owners. Feb 1951: no arrangement made for sale. To stand down for inspection

³⁷ County clerk to registrar, Maori Land Court 30 may 1951 (doc:12).

³⁸ Ibid.

³⁹ Doc97.

Otorohanga County Council applications

Block name	Hearing date/MB ref.	No. owners	a	r	p	grounds	Evidence in court/outcome
Kopua A1	13/11/1952 Oto 77/376 7/5/1953 Oto 78/105 12/8/1953 Oto 78/186	7	323	0	00	Unpaid C/O, unpaid rates, neglect to farm, unoccupied	Smith: Virgin country, unimproved, no buildings, no fences, no improvements. Think land would be taken up if available. Sheep country. N.Roa (owner): would be prepared to sell. Adjourned to Feb to enable owners to effect sale. May 1953: adjourned to next sitting pending sale. August 1953: land sold to Maxwell. County consents to withdrawal of application. Struck out subject to payment of 10/- from purchase money to county.
Mangawhero 3B4B2B2	7/5/1953 Oto 78/105						Land occupied, rates paid. Struck out.
Orahiri 2/5B2A2	7/02/1952 Oto 77/193	2	67	0	7	noxious weeds	Owners notified, one lives on land. Smith: about 6-7 acres in grass, much gorse, blackberry and ragwort. Old whare on land, can't say if anyone lives in it. Unoccupied except that whare used from time to time. Land should be taken up, stream would require to be bridged. Order made.
Orahiri 2/5B2B	26/11/1953 Oto 78/281	2	69	1	00		Lease has been signed and if completed application can be struck out. Adjourned.
Orahiri 2/5B2D	7/5/1953 Oto 78/105						Application previously adjourned to enable lease to be granted. K Tana, owner, present. After discussion – adjourned to August sitting. If nothing done, satisfactory to Court order will be made.
Orahiri 30B	13/11/1952 Oto 77/375	14	2	1	6		1 owner present. Smith: land cleaned up in last few months and part looks as if prepared for garden, no building, no one living on land. K Hari (owner): land being used. Adjourned to Feb.
Orahiri 6B3A	7/02/1952 Oto 77/191		4	2	24	unoccupied, noxious weeds	Smith: metalled road access, no buildings, no fences, road fence only. Third in weeds and rubbish, balance in grass. Principal owners notified, discussed with 4 of them, nothing done. Order made: 'In view of the area and number of owners it is suggested that the land should be sold.'
Orahiri 6B3B2A	13/11/1952 Oto 77/374	5	13	2	2	unoccupied, noxious weeds	Owners notified, 3 of 5 deceased. A successor to principal owner has stated to me that she does not oppose as owners can do nothing with land. Smith: no road frontage, adjoining owners would take up lease. Order made on grounds a, b, d (sale is recommended).
Otorohanga 1F5C2A	1/10/1952 Oto 77/329 77/331		3	1	16	Owners cannot be found	Enquiries to be made for owners. G Turner claims to know one owner who is still alive (not so). JS Wooster (adjoining farmer): land has been occupied by adjoining owner without title or payment. Owners could not be found in 1921 when P/O made. I have enquiries of old people but could not locate them. Order made – alienation by way of sale.
Otorohanga F2C	24/05/1956 Oto 80/351 15/8/1957 Oto 81/267					unoccupied, noxious weeds	Phillips: valuable land near township. Smith: No one on land, condition very bad - ¾ acre under cultivation, remainder flat, falling towards river, higher level heavily infested with gorse and blackberry. I expect a neighbour to be interested - no approaches as yet. Phillips: all owners have been notified & I have discussed matter with most. They are keen to clear up the matter and ask for 3 months to get work done. Adjourned for 3

							months. Owners told in open court weeds must be cleared or an order will probably be made. (Subject also to partition order) August 1957: front portion cleared, reasonable attempt made. Struck out accordingly.
Otorohanga Part P1A	13/11/1952 Oto 77/374 10/8/1953 Oto 78/174	10	44	1	39	Neglect to farm, noxious weeds	Have notified those whose address is known, none present. Earlier attempt to lease to one of the owners abortive. Smith: no buildings, no stock, smothered in gorse blackberry also ragwort. Owners have done nothing with land for 30 years to my knowledge. Order made – alienation by way of lease. August 1953: application for cancellation, owners have agreed to sell to DA Brier. Adjourned to next sitting so alienation may be completed.
Otorohanga Part 2/1A & 1C	7/5/1953 Oto 78/106	10	34	1	00		Owners notified, one present. After discussion, adjourned to August sitting. If land not then properly leased Court will make order.
Otorohanga Q2E	8/11/1951 Oto 77/129					noxious weeds, unoccupied, unpaid rates	Owners notified, none present. Smith: blackberry & gorse coming fast, no buildings, no fences. About half steep and not suitable for farming. 'Just waste land'. Order made - alienation should be by way of sale.
Parihoru 1A7C2A	18/5/1951 Oto 77/54		56	3	01	Unoccupied, noxious weeds, neglect to farm	Neill, adjoining farmers testifies as to state of land: no occupation, all in fern scrub and weeds, easy and workable country, would take lease if suitable terms. N Smith ⁴⁰ : never been farmed in 30 years, county has year after year had ragwort gang at work on block. HN Huihi (owner): have had land since 1932. Admit land not occupied & used. Have tried to get land developed, and housing loan. Court: Order will be made if within 3 months owner has not completed arrangements for proper use and occupation of land.
Rangitoto A14A	6/11/1952 Oto 77/351		47	0	30	Owner cannot be found.	Land sold to Sutton as to all interests other than R Prentice, who has 1/60 share of land. Prentice went to Australia many years ago, and his relatives have been unable to locate him. Order made, to alienate by sale, on grounds owner cannot be found.
Rangitoto A15B	8/11/1951 Oto 77/29 7/02/1952 Oto 77/188	7	94	3	10	noxious weeds, neglect to farm	November 1951: adjourned to next sitting. February 1952: owners represented by Patterson, oppose application. Smith: land occupied by Tom Paki owner, surrounded by good dairy farms. This is good land but not farmed, heavily infested with ragwort. No sheep, about 25 cows. House and cowshed on land. Have prosecuted Paki for ragwort, he was fined by magistrate. Patterson: no questions, suggests adjournment, Paki says he has done some of ragwort. Court: Order made on ground b and d.
Rangitoto A15B2B	7/5/1953 Oto 78/106						Proclaimed for development under 1936 Act. Struck out.
Rangitoto A18B2A	7/02/1952 Oto 77/192	23	495	3	8	Unoccupied, neglect to farm	Notified 8 principal owners, but had no reply. Smith: housing material there with notice of builder's name, been there months. No buildings, no fences other than boundary fences. Noxious weeds not bad, natural growth – fern, tutu. 'Land should be used - capable of dairying'. Owners all live in other districts. Order made on grounds a & d.
Rangitoto A24B South	8/11/1951 Oto 77/129 7/2/1952 Oto 77/190		500+			Unpaid rates, unoccupied, neglect to farm	Registrar to obtain report as to land, development, timber, alienation etc. February 1952: Phillips: big block formerly farmed by Pemberton and abandoned. Westinacott would take up lease. Smith: 500 acres in grass gone back – ragwort and thistle, sheep country, metalled access. Order made.

⁴⁰ Noel Smith, noxious weeds inspector, Otorohanga County Council.

Rangitoto A39B2A1	13/11/1952 Oto 77/380	1	171	3	10	Unpaid C/O, unpaid rates, unoccupied	Cabled sole owner, resident in Tonga. Smith: covered with fern, manuka, no buildings, fences. Order made.
Rangitoto A39B2A2 & 2B	13/11/1952 Oto 77/380 14/02/1957 Oto 81/97 15/8/1957 Oto 81/267		701	2	11	Unpaid C/O, unpaid rates, neglect to farm, unoccupied	<p>Many owners – principal owner of each family notified, some present, some represented. Smith: 200 acres in bush, balance in second growth fern & manuka, not farmed. Wooster (for owner): should be some millable timber, land should be capable of development. Adjourned to Feb to enable Board MA to consider development.</p> <p>February 1957: 5 owners present. County obtained order over 2A (171 acres 3 roods), Maori Trustee called tenders, successful tenderer found no survey of boundaries and no funds in hand, so MT suggested county should apply for order for 2B (714:2:35). Smith: in virgin state, no development in 35 years. No effort to farm, no one resident. If a man has capital sufficient area to make an economic unit there; weeds aren't bad, 2nd growth timber is main growth. No questions from owners present. W. Ngarotata (owner): not in favour of order, would like to partition my interest and settle one of my sons on it. No rate demand sent to us for many years, no nominated occupier. Court explained that owners have first opportunity to apply for lease. A Roa (owner): asked whether Court would be prepared to let her have some timber to improve property she now occupied. I feel meeting first to discuss future of land. Court: It is against public interest that land should remain unimproved and unproductive, whether land is owned by Maoris or pakehas. District Officer: development should be investigated. The owners must realise their responsibility for rates and take some steps to prevent infestation with weeds. Now that the County Council has filed the application, they may take some action. Court recommends Ngarotata and Roa call a meeting of owners to consider what they will do with their land. Failing some decision by the owners themselves, the Court will consider application. Adjourned till next sitting.</p> <p>August 1957: Phillips: 2 Pakeha interested in purchase. Ngarotata agreeable to meeting of owners to consider sale at £3 per acre land and timber to Rakau Farms Ltd, a company to be formed by 2 Cambridge farmers ... for purpose of acquiring and developing this land for settlement of their sons. Court: development report is to effect that land not suitable for immediate development. Meeting not to be called until report on timber.</p>
Rangitoto A45B1B3	7/05/1953 Oto 78/104 26/11/1953 Oto 78/282	2	80	3	20	Noxious weeds, unoccupied	<p>Smith: flats infested with ragwort. Could be farmed, no one living on land permanently. One owner has been living in house on land – past year, he was getting timber from bush. About 10-12 acres now in swedes. Unformed road access. Land has never been farmed. AH Ormsby (owner): had 50 cattle on land last year. I am a hairdresser in Hamilton. If given 12 months would improve land, clean up ragwort and pay rates outstanding, or if unable will sell. Adjourned to November.</p> <p>November 1953: nothing done with land since May. Swedes eaten off but no cultivation since. No one living on land. Order made.</p>
Rangitoto A48B2B3	18/08/1955 Oto 80/47					Unpaid C/O, unoccupied, neglect to farm, noxious weeds	Smith: 40-50 acres fern, balance reverted to scrub and second growth. There are a dozen big rimu towards South of block. Country undulating to steep. This land could be farmed but it would be a costly job. Someone would take it up if they got long lease with compensation for improvements. Metalled road passes corner of this block. Two bridges are required, and Council is desirous to see the land occupied and to recover revenue. Order made.

Rangitoto A60B southern part	7/05/1953 Oto 78/106 18/8/1954 Oto 79/119	11	883	2	6	Neglect to farm	Ngaanio family notified, none present. Smith: Taken up years ago and part grassed. Cleared land has gone back to second growth. Metal road to boundary, weeds not bad. No dwellings, no fences. Good grazing country, good road. Think land would be taken, some timber but not much. Order made. August 1954: application for cancellation by Dept MA on grounds of existing timber lease, opposed by county. Phillips: Timber licensee not liable for noxious weeds, or to farm or manage properly. The Otorohanga CC has made few of these applications concerning Maori land in its district. All made after report by Noxious Weeds Inspector. I don't think one block offered under Part III in this County not taken up. Court: application dismissed.
Rangitoto Tuhua 33B3A2	4/2/1952 Oto 77/164 6/11/1952 Oto 77/349		@15				Adjourned to next sitting to enable sale of land. November 1952: land is owned by AB Cowan as to all interests other than 3 owners. Enquiries made to Fielding where these 3 owners were last heard of but they cannot be discovered. Cowan wants to complete title. Order made – alienation by sale.
Rangitoto Tuhua 33C3B3A	13/11/1952 Oto 77/377 10/8/1953 Oto 78/174	17	44	1	0	Unpaid rates, noxious weeds.	Efforts being made to clean up weeds. Rates not being paid. County would like to see proper occupation. N Te Whare, an owner would probably take a lease and improve if he had opportunity. P Pehikino (owner) asks for adjournment. Would agree to lease to Niha. Order made - it would appear to be suitable to see if Miha Te Whare would take lease. August 1953: application for cancellation, land already partitioned in A1 of 2:2:4.57 and A2 balance. A1 is now being sold to R Anderson and transaction confirmed. MT to alienate A2 only.
Rangitoto Tuhua 34B5A & 34B5A closed road	7/05/1953 Oto 78/107	1	63	3	00	unoccupied, unpaid rates	Sole owner notified, not present. Smith: no building, no fences, very little weeds. All tractor country. Order made.
Rangitoto Tuhua 35C2B part	7/05/1953 Oto 78/108 13/8/1953 Oto 78/187	5	233	0	00	unoccupied, noxious weeds, unpaid rates	Lease to Mason of other part of block. One owner present. She admits land unimproved and nothing being done with it. Would like to farm it. Order made unless within 3 months owners clear broom gorse and bring rates up to date. August 1953: county consents to adjournment to November.
Sec 10 Blk X Pirongia SD	17/08/1956 Oto 81/9						Phillips: small rates arrears, no charging order. Smith: undulating to steep, most fern covered, rest in inferior bush, weeds are taking over. No buildings, someone has had stock there. Property could be farmed - a fair prospect of it being leased if offered. Hetet (for owners) - no questions, [owners?] - six children of whom one is a minor, No chance of them doing anything with land. Owners have no objection to order. Order made - MT to note there may be timber which should be protected on lease.
Tahaia B2C3C1	13/11/1952 Oto 77/378	1	20	0	00	Unpaid C/O, unpaid rates, noxious weeds	Sole owner present. Smith: flat land in grass, heavily infested with ragwort. No buildings, partly fenced on boundaries. Land used by various graziers. R Waho (owner): want to farm land, will try to use it. Adjourned till Feb. to enable proper arrangement to be made for use of land.
Tahaia B2C3D1	13/11/1952 Oto 77/379		33	3	14	Unpaid C/O, unpaid rates, noxious weeds.	Smith: good land, farmed in part by N Takawe who is not an owner, kept ragwort in check, farming without tenure. Order made - suggested lease be granted to N Takawe, owners appear to be scattered and not interested.
Tarapounamu A3	7/05/1953 Oto 78/108	1	343	0	00	Unoccupied, neglect to farm,	Sole owner is arranging a lease. Adjourned to August to enable lease to be completed. August 1953: Phillips: nothing has been done. Adjourned to 20 th August.

Tarapounamu A4A	13/8/1953 Oto 78/187 20/8/1953 Oto 78/213	1	75	0	00	noxious weeds	20 August 1953: Smith: all unimproved, much wattle, patches of gorse, easy to steep country. I think land would be taken up. Order made.
Tarapounamu A4B	26/11/1953 Oto 78/282	6	217	0	00	unoccupied	Smith: rolling country in virgin state. Little bush, not millable. No fences, no buildings, weeds starting to come in. 100-120 acres suitable for dairying. Served by good metal road. Order made.
Te Whetu A4B	4/5/1955 Oto 79/296						County applies for cancellation of order dated 14/5/1953. Cancelled. Subject to right of county council or Maori Trustee to ask for reinstatement if sale no.18098 not completed.
Te Whetu A5/4	12/11/1953 Oto 78/231					Unoccupied, noxious weeds, unpaid C/O	Land subject to Part I/1936 but not developed by Board except that land let for grazing. Dye (for Board): meeting being called to consider lease, land has been neglected. Order made - unless within 3 months Board of MA enters into proper lease.
Waiwhakaata 3E4E2	7/05/1953 Oto 78/107 19/11/1953 Oto 78/252	43	440		4	Neglect to farm	Cameron (for owners): Owner's husband occupies part and is dairying 40-50 cows. Owner will apply for partition. Adjourned to August sitting. November 1953: Cameron (for owners): applications for succession and partition on panui. Did attempt partition but owners said they were leasing whole block. Court: Order made - not to take effect if owners partition within three months & satisfy court as to suitable arrangements for occupation. If land leased by MT house of R Teremai to be excluded with area for cultivation say 2 acres. Millable timber on land to be sold under proper license for all owners if land partitioned.
Waiwhakaata 3E5	13/11/1952 Oto 77/381		70	3	20	unoccupied, noxious weeds	Notice to various families, no reply, none present. R Katipa asks for adjournment by telegraph. Smith: virgin country, some steep, some tractor country. All fern, on flats by stream weeds coming in rapidly. No occupation, no fences, no buildings, would be taken up readily. Order made. Solicitor has client who is interested.
Waiwhakaata 3E6/3A	12/05/1953 Oto 78/138	1	75	2	6	noxious weeds	Smith: owner lives on 75 acre piece. Farms land roughly, not properly. Dairies few cows, grazes few sheep at times. Land will go back, fern coming through grass. About 25-30 acres grass and balance now badly affected by weeds. Owner has cut ragwort twice this year. All good land, requires manure and farming. Owner about 60 – lives by himself. Order made - not to take effect if owner makes suitable alienation before next sitting in August. August 1953: Hetet (for owner): Papara want to keep land for grandchildren. I live on property with a grandchild. Adjourned to November to enable Papara to place land under Dept. or alienate as he pleases. If nothing done order will be made.
Waiwhakaata 3E6/3B & 4C1	13/8/1953 Oto 78/187	1	67	0	13		
Waiwhakaata 3E6/4A	8/11/1951					Neglect to farm, noxious weeds	Smith: 15 acres in grass, Lucas grazes that. Lucas has been required to keep ragwort down. He has done this. Owners cannot be found, owner on title dead since 1930 and no succession order applied for. One B Symes a nearby owner will take up land. Order made.
Wharepuhunga 12A2A2A	13/11/1952 Oto 77/376	3	45	0	32	Unpaid rates	Land leased to M Pukunui but not occupied. Smith: land is river flat, good land. Much ragwort, but owners working on it, used for dairying. House and cowshed – Hohepa family lives on land and uses it. Rates not being paid.
Wharepuhunga 12A2A2B	7/02/1952 Oto 77/189	9	744	0	18	Unoccupied, neglect to farm	Phillips: mostly virgin land, fern, manuka, tussock, small area in grass running few dairy cows. Smith: access by metal road, some good land, some steep, some stock. Kay adjoining owner would take part. Would be taken up readily. T Utiki (owner): wanted to partition our area over 200 acres, Court would not do it, we wanted to lease to Kay. Court:

							Order made on grounds a, b & d. Bush to be reserved.
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Taumarunui County Council applications

Block name	Hearing date/MB ref.	No. owners	a	r	p	grounds	Evidence in court/outcome
Ohura South A3A2	16/08/1954 Oto 79/111 22/11/1954 Oto 79/179		250			Application for rates C/O	Owner/occupier present: I owe 2 years rates. We went to block with no money at all, financed by Dalgetys, I will arrange payment. Adjourned. November 1954: struck out.
Ohura South A3E2C3B2A	22/11/1954 Oto 79/181	30				unoccupied	Some owners present . Unoccupied since lessee left 15 years ago, gone back badly to scrub. Could be good farm, was once dairy herd, should be leased. P Raimaruhi (owner): agree better to lease than to leave land idle. T Houppapa (owner): I have a young man who will lease. Order made
Ohura South K1/2C1B	17/08/1953 Oto 78/198	9				unoccupied, unpaid rates, neglect to farm	Andrew (for county): notified one owner. Farmable land, should be farmed. Order made – ‘It would appear that the land would be most suitably be taken up in separate parcels by 3 different adjoining owners’.
Ohura South M2A1	17/08/1953 Oto 78/199	1	48		25	Unoccupied, noxious weeds	Owner deceased. Not economic holding, hilly. Mainly in scrub. Order made.
Ohura South M3B1	17/08/1953 Oto 78/198	1	48		25	Unoccupied, noxious weeds	Andrew: owner farmed till his death. Land now unoccupied, badly infested with ragwort. Land would be taken up by adjoining land owners. Order made.
Ohura South M3B2A		4	26		26		
Ohura South N2B2	17/08/1953 Oto 78/199		227	3	30	unoccupied, neglect to farm	Andrew: no fences except neighbours boundary. Owner unable to do anything. Land should be leased in two areas, approximately half on each side of high ridge. Order made
Ohura South N2B3	17/08/1953 Oto 78/199		134	1	39		Andrew: good grazing country covered in scrub, hilly to steep. Hardly an economic holding but good land. Order made
Ohura South N2C2	17/08/1953 Oto 78/200	11	113	3	7	unoccupied, noxious weeds	T Kahukete (owner) present. Tame agrees to order. Order made.
Ohura South N2E1A1	16/8/1954 Oto 79/113 22/11/1954					Application for rates C/O	Adjourned. November 1954: struck out.

	Oto 79/181						
Ohura South N2E1A2	16/08/1954 Oto 79/111					Application for rates C/O	Order made.
Ohura South N2E1A4A	16/08/1954 Oto 79/113 22/11/1954 Oto 79/179					Application for rates C/O	Demand issued to owner with 1/4 share. The arrangement was that we would sell to Goodwin but we changed our mind. I agree that the rates are owing. November 1954: County: I have been reluctant to force this issue but it is not in the interests of the owners to allow matters to drift further. Leading owner at last sitting agreed that the best thing was for the court to vest in MT and to be auctioned. Ct: have inspected the land but none of owners attended. All agreed that best thing was for MT to subdivide and sell by auction. M Kaka has lodged application for partition and has not paid the rates. It is no use holding the rate question over further. C/O made. As to future, the owner's interest will eventually disappear. Order made to vest in MT for subdivision and sale. Not to be forwarded to Minister until Mr Andrews has filed evidence that he has given notice of this order by registered post to 3 owners.
Ohura South N2E3A2B	22/11/1954 Oto 79/180					Application for C/O	Discussed with one owner last sitting. Order made.
Ohura South N2E3G1B	17/08/1953 Oto 78/200		14	2	18	unoccupied	Land used for growing potatoes. Grazed by Hihai Amohia who will pay rates. Struck out.
Ohura South N2E3G3/11B3A	17/08/1953 Oto 78/201	5	137	0	37	unoccupied	Land unoccupied except that Tame Kahukete has rough whare. He lives there. Does not want to be put off. His two children have approx 40 acres and he is thinking of partition and working land. Adjnd to next sitting.
Ohura South N2E3G3/11B4B	24/11/1953 Oto 78/269		59	3	2	unoccupied	November 1953:Andrew: no one living on land, no one farming it. Owners aware of application, would like assistance from Dept to meet owners and discuss proposals for use of land. Adjourned.
Rangitoto Tuhua 55B2A2B3	16/8/1954 Oto 79/110					Neglect to farm	Andrew: land was leased to orchardist, he has left. One owner wants to occupy cottage but she wishes protection. Land has gone back badly. Unoccupied except as to cottage. A Ngatai (owner): Nothing at all is being done with the land because there are too many owners. I agree with Mr Andrews. Order made. A Ngatai desires lease.
Rangitoto Tuhua 66A3B	24/11/1953 Oto 78/270	4	245	0	20	Neglect to farm	Andrew: have not notified owners – have no addresses. Former lessee had slab whare and a little grass. No proper fences, gone back to fern & scrub. Adjoining owner would take lease. No rates paid. Adjourned for notice to be given to owners.
Rangitoto Tuhua 67B4C1C2	17/08/1953 Oto 78/203	67	177	2	24	Unoccupied, neglect to farm, noxious weeds	J. Ngarima a [t.b?] subject lives in shack on land but he is unable to farm and land not used. Order made.
Rangitoto Tuhua 67B4C2		41	273	0	31	Unoccupied, neglect to farm	Wholly unimproved. These two blocks should be leased together to form one holding. Order made.
Rangitoto Tuhua S2A1	17/08/1953 Oto 78/202	63	10	0	10	Unoccupied Noxious weeds	Andrew: looks like a fag end after partition. Land should be sold. Order made - unless any person interested has meeting called for purpose of sale. It is suggested that this land should be sold.
Rangitoto Tuhua S2D2	17/08/1953 Oto 78/203	31	211	0	26	unoccupied, neglect to farm, noxious weeds	3 houses on block. Land not properly farmed but used to some extent by occupiers not known to be owners. Sometimes no one there. Some ragwort but fairly well controlled. Blackberry bad on some parts of flats. Land could be farmed. Order made - occupation by owners to be considered in case of alienation - H Barrett considered as possible lessee).

Te Uranga A6	24/11/1953 Oto 78/268	4	521	2	11	Unoccupied, neglect to farm	Andrew: Land almost entirely in scrub, small patches of grass with cattle wandering through. Homestead on land, I think now unoccupied. Good sheep & cattle country. No rates being paid. Good farm going to waste. Owners are aware of application, I have discussed matter with them but there appears to be disagreement between brothers. Order made - Sec (4) of Sec 34 applies.
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Waipa County Council applications

Block name	Hearing date/MB ref.	No. owners	a	r	p	grounds	Evidence in court/outcome
Takepuku 9B8/2A	9/08/1957 Oto 81/250		282	0	00	noxious weeds, neglect to farm	Owners notified, not present. Western side Mt Takepuku, adjoins scenic reserve, in centre of rich farming area. Covered with scrub & fern, no millable timber, scenic only, no pasture or evidence of cultivation, delapidated whare only. Pockets of ragwort treated annually by council. While not large enough to constitute a sheep farm on its own, it would make an ideal run-off for neighbouring farmer. Top portion should be offered to the Crown, to be added to scenic reserve. Has been someone there cropping potatoes, no serious attempt at farming, in fact none at all. Court: Lessee should be notified of these proceedings. Adjourned.
Takepuku 9B8/2B							
Takepuku 9B8/2C							