A41

Re-housing Tauranga Maori 1935-72

Tony Nightingale, MA (Hons.)

Wai 215

November 1996

Cover Sheet

Included in this Report:

1. Direction Commissioning Research
2. Covering letter from Commissionee to Registrar.
3. Report on Maori Re-housing: Tauranga 1945-72, including:
4.

i	Full title, Wai No. Date, Commissionees Name
ii	Acknowledgements
iii	Executive Summary
iv	Brief Curriculum Vitae
v	Three sections , Introduction, Attempts to Re-house , Conclusion
vi	Document bank

Maori Re-housing: Tauranga 1945-1972

Tony Nightingale, MA (Hons.)

This report was commissioned by the Waitangi Tribunal for the Tauranga claim (Wai 215)

November 1996

ACKNOWLEDGEMENTS

I should like to thank Waitangi Tribunal staff for help in putting this report together. I should also like to acknowledge the assistance of the staff at National Archives; National Library; Land Information New Zealand (Hamilton); the Tauranga District Council and the Tauranga Public Library.

EXECUTIVE SUMMARY

A considerable State-facilitated re-housing of Tauranga Maori was undertaken in the post-war period. Concurrently rapid urban growth led to the incorporation of rural marae into in to the Borough. This change of status in itself forced adaptation, because it brought many Tauranga Maori under the auspices of the Tauranga Borough, its rating, and planning systems.

The Town and Country Planning Act 1953 conferred on the then Tauranga Borough Council the power and responsibility to create a plan. In that process there was no specific statement as to how the plan should relate to Maori development. While marae were an 'existing use', there was no recognition that marae might have different planning needs than Pakeha institutions, and there was no legal obligation to consult with Maori to assess their needs. By the time a new Act was passed in 1977, there was some specific recognition of the special status of marae. There was also an acceptance that some residents should be allowed to live in a marae vicinity, although this was only seen as an ancillary use. By this time the days of Tauranga urban marae as an immediate centre of Maori population had passed and the change in emphasis in the legislation did not provide any retrospective relief.. The 1977 Act implied a responsibility to consult with Maori and recognised the national importance of the Maori relationship with their lands. In Tauranga this wider interpretation of marae function had been anticipated by the Tauranga County in its concept of the Marae Community Zone, although by 1973 , when the zone concept was adopted the larger debate over whether hapu could remain intact as distinct social grouping s had already been lost and so the concession, while real, was only very partial.

Residential zoning increased the value of Maori freehold land and was accompanied by huge rate increases. Given that the valuation was undertaken based on an unencumbered sale, it failed to take into account traditional ties to the land and Maori unwillingness to sell the lands that identified them. As the Tauranga area grew there was a consistent expansion of the Tauranga Borough (then City) and Mount Maunganui Borough into County lands. With these expansions marae were brought into the urban area. Tauranga Maori equated urban zoning with enforced land sales as owners became overburdened by increased rate demands. The Maori lands affected included Judea, Whareroa, Maungatapu and Hairini, although Matapihi successfully stayed outside the Borough until the major local body reorganisation under the Lange-Douglas Labour Government.

The 1950s failure to develop Whareroa lands for residential sections to help re-house the Maori owners, many of whom lived at Matapihi, cast a shadow over all future moves to re-house Tauranga Maori and significantly reduced the asset base of those owners affected. The fact that Government considerably benefited from withholding permission for the Maori Trustee to subdivide may have been legally justifiable but it was morally inexcusable and politically cynical. It forestalled a genuine attempt by the owners to improve their conditions and contributed to the insistence by Matapihi Maori that they wanted to take charge of their own future by remaining outside the city and at arms-length from the threat of residential development. The re-housing of Maori at Judea was probably the most successful. While the County had allowed for a

sub-division that retained a significant number of houses on traditional land, much of it on individualised title, which could be alienated at some time in the future. Many Judea Maori were re-housed in the neighbouring suburbs of Greerton and Otumoetai, either on purchased sections or in state housing. While many of the individuals concerned ended up living an 'integrated ' existence in predominantly Pakeha neighbourhoods, they were relatively close to the marae and often on former customary lands - albeit alienated customary lands.

Land sales and residential development was facilitated on the Maungatapu peninsula and at Hairini by the inclusion of these lands in the Borough and the building of the bridge and motorway. Residential subdivision was greatly facilitated by the fact that a considerable number of blocks of land had rates debts for which charging orders were taken by the Borough. Maori Trustee administration was generally poor and of a total of 259 sections formed in its Maungatapu subdivisions, only 36 were purchased by Maori. Most of those purchased were in the vicinity of the marae. The poor financial returns from development further undermined confidence in the State.

The role of the Borough/City Council in re-housing was one of an enthusiastic supporter. The Council was in a win/win situation because, for re-housing to occur it had to be n individual title, on which it could more easily collect rates. If Maori freehold land was ultimately sold this too would facilitate rates collection. By enforcing housing and health legislation against substandard Maori housing the Council found it could speed up the process.

Enforcement was a minor factor in the Council's power compared with it ability to facilitate sales of Maori freehold by zoning it residential. Once inside the Borough Maori owners were consistently unable to retain non-residential zoning. The one glaring example of owners who managed to buck the system was Matapihi, where the Maori residents were sufficiently organised, and in a majority, that they demanded a poll every time the Council attempted to incorporate the peninsula within the city. Each time a poll was taken the local voted against becoming part of the Borough/City.

Most Maori freehold land owners found that the regime in the scheme did not adequately allow them to develop their lands. In this period marae moved from being living centres of population, to institutions that were occupied less intensively. While the 'fires were kept warm' this was in spite of the best efforts of the local Councils to reduce the significance of marae. When some recognition was given with the Marae Community Zone, it was belated and after the key re-housing decisions had been taken. Even the Zones relegated marae living to an ancillary use, and so made it clear that it was there as a vestige, rather than a reinforcement, of marae living.

Introduction

My name is Anthony Grant (Tony) Nightingale. In 1983 I graduated from Canterbury University with a Bachelor of Arts in history and in 1985 with a Master of Arts (Hons.). My degree included political science and New Zealand history papers to Masters levels. I am a trained and certificated secondary teacher and have completed four post-graduate papers in public policy.

After initial experience in the public service and some time teaching, I began working as an historian in 1990, and as a freelance historian in 1992. I have three 100,000 word publications, *Waiuta 1906-51* (a goldmining history published in 1986); *White Collars and Gumboots: A Centennial History of the Ministry of Agriculture and Fisheries* (published in 1992); and *Mobil: One Hundred Years in New Zealand* (published in 1996). I have written seven essays for the *Dictionary of New Zealand Biography* and a plate for the upcoming *Historical Atlas of New Zealand*. In the last year I have researched for both the Crown Forestry Rental Trust and the Waitangi Tribunal on matters relating to Wai 215.

I was a founding member of PHANZA - the Professional Historians' Association of New Zealand - and am currently its secretary. I am also a member of the New Zealand Historical Association.

The Report

This report was one of three commissioned by the Waitangi Tribunal to be completed between May and November 1996.

This report was one in which the author was given scope to develop some ideas from an earlier draft report prepared for CFRT. Re-housing of Tauranga Maori during the 1960s was a major focus of Government activity in the Western Bay of Plenty in the 1960s. What is included here is an investigation into the interaction of government policy and local body administration on Maori housing and land ownership. The topic is potentially vast and so has been reduced to an examination of specific housing policy as administered by the Department of Maori Affairs, the impact of urbanisation on marae and attempts by Maori land owners to re-house on their traditional lands.

Section 1:Introduction

This report is an investigation into the extent to which Tauranga Maori could control their living circumstances in the face of post-war urbanisation. In this period many rural Maori migrated from smaller centres to metropolitan centres to a new way of life. In Tauranga for many, the city came to them. Urban growth was phenomenal in the Western Bay of Plenty in the post-war period, based on the development of a major export port, a parabolic growth in the timber industry, and the development of horticulture. This urban growth occurred at the same time as Government empowered local authorities to plan the development of their territories under the Town and Country Planning act 1953. The legislation left local authorities free to make a range of decisions critical for Maori development - both in terms of where they lived and how their communities developed..

Local Authority zoning and administration played a central role in shaping the living conditions of Tauranga Maori, both in terms of physical conditions and in terms of community development. While it is not possible to meaningfully extrapolate from Tauranga experience to a national situation, what is attempted here is to asses the role of town planning on the living patterns of Tauranga Maori 1945-1972. This is an overview report, heavily reliant on the Work of Evelyn Stokes, Heather Bassett and the Maori Affairs files. It centres around the question of 'to what extent were Tauranga Maori free to develop their marae?', and as many Tauranga Maori became urbanised 'how much control did they have over how they adapted to this change?'. The examples looked at are (1) the attempt to subdivide land at Whareroa in the immediate post-war period, (2) the urbanisation of Judea in the 1950s, and (3) the re-housing at Maungatapu and Hairini. While I will briefly refer to the development of the Tauranga County's Marae Community Zone in the early 1970s, it is my contention that this was put in place after the most significant decisions relating to housing development options had been made.

1936 Housing Survey

There is no doubt that Maori housing conditions in the Bay of Plenty were very bad and considerably below those of Pakeha. Pomare's 1936 survey of housing in the Tauranga County showed that nearly 59 percent of the houses on which he had complete data (which was 136 Maori dwellings in a survey of 369 homes) were less than the minimum requirement of 300 cubic feet of air space per person, which had been the standard adopted by H.B. Turbott in his 1934 East Coast study.

On top of this 46 percent were dark to the extent that they either had no windows or had only covered windows, 80 percent were damp, over half had defective roofs, 72 percent had unlined walls, while nearly a quarter of all dwellings had earth floors. Sanitation was very poor, in 47 percent of cases of the 369 homes visited there was no privy and there was evidence of faeces broadcast in the vicinity. Only two of the total had mains water. At the same time Pomare was quick to point out that the homes were generally clean, i.e. only 11 dwellings were considered dirty.

> This disclosure, together with the economic situation of each family stresses the contention that despite the many places deserving of condemnation through structural defectiveness they are generally speaking amazingly well kept under the circumstances. Showing that if given a chance for his environment to be controlled, there is no reason why Maori should not bloom with the fairest of our Anglo-Saxon brethren.
>
> There were seventy-nine (79) families found living on the sufferance of others through having no homes of their own and no financial means of acquiring them.[1]

The war and the inadequacy of initial attempts to re-house Maori under the Native Housing Act 1935 meant that real action was delayed until the late 1940s.[2] Even then most re-housing 1935 - 49 was a consequence of building accommodation for workers on land development schemes - in all 1,224 houses were built on schemes prior to 1940. Five cottages were built to house workers on the Tauranga Kaitimako scheme[3], although it is hard to quantify how many Tauranga scheme dwellings were built in total due to inadequate records. There may also have been houses built on units.

In Tauranga there were only three small development schemes, Kaitimako, Ngapeke and Mangatawa-Papamoa, with a number of unit settlers. What is clear is that re-housing under the Labour Government was minimal given the scale of the problem. Nationally fewer than 400 dwellings were erected under the loans-based Native Housing Act and the 1938 Amendment Act. Until the 1960s Maori Affairs loans were made only to those who had individualised title and by definition this ruled out many Tauranga Maori.

By 1949 Maori housing condition in the Tauranga County were largely unchanged and it was not until the late 1950s that Maori, in any great number, gained access to state housing. Where State housing was provided to Maori there was a conscious effort to disperse Maori amongst Pakeha in order to facilitate the adoption of the nuclear family and associated lifestyle.[4]

State housing for Tauranga Maori was only ever going to be a supplementary source. Most Tauranga Maori had title to traditional lands and before the Second World War most were housed there, so the greater issue was how could those Maori who lived in sub-standard accommodation be re-housed. The overwhelming majority were in the

---

[1] Health, series 1, 194/1/8 (13926) R .W. Pomare, 'Maori Housing Survey: Tauranga County', 18 August 1936

[2] Gael Ferguson, *Building the New Zealand Dream*, (Palmerston North, Dunmore Press and the Historical Branch of Internal Affairs, 1994), pp. 163-5

[3] AAMK 869/829a, 'Kaitimako Development scheme - Investigation and Calculation for the hearing Before Maori Land Court Under Section 31 of the Maori Affairs Act 1931' G. H.. Fraser, Assistant District Officer, to head Office undated but ca. January 1965. (See Tony Nightingale, Tauranga Maori Land Development Schemes, 1929-55 [Report Commissioned by the Waitangi Tribunal, November 1995], [Document bank pp. 77-80]).

[4] Gael Ferguson, *Building the New Zealand Dream*, pp. 165-169.

Tauranga County,[5] and in general they occupied their customary land under Maori freehold, which meant that most dwelt on multiple-titled land. They held this right as a consequence of being an iwi or hapu but in legal terms they had no specific right to any one piece of land unless it had been individualised by the Native Land Court.

The issue was, given a significant asset base in land and community, whether Tauranga Maori could re-house, without breaking their fundamental ties with that land and community. Related to this was the issue of whether they could re-house in such a fashion as to maintain a lifestyle that was hapu-based, and fundamentally different to the living patterns of surrounding Pakeha. A major complication as far as Tauranga was concerned was that this re-housing was carried out in a period of rapid urban expansion, where decisions had to be made quickly.

Town and Country Planning Act 1953

A marae was an 'existing use' under the Town and Country Planning Act 1953[6], which meant that marae were tolerated as they existed in 1953. However there was little in the legislation that would support the active development of marae as a nucleus to an ongoing living community, and given that the Town and Country Planning Act was to facilitate planned development, one can argue that this lack was a substantial failure of duty by government.

Marae development had to proceed within the constraints imposed by the piece of legislation, and the local bodies who administered it. In combination the system represented a very limited view of how individuals should live. While one could argue that Maori aspirations could have been accommodated by a wider definition of terms such as community and history, this is too generous interpretation. The Act as interpreted by the Western Bay of Plenty local bodies reflected a mono-cultural New Zealand. Maori, who still lived mainly in rural areas, had had little contact with the planning process. This was partly because town planning itself was only established under the Town Planning Act 1926, which did not apply to to rural areas[7], The 1953 Act made provision for planning documents in all districts covered by a local authority, both urban and rural. Hence this legislation brought many Maori within its bounds, who had not been greatly effected in the past. There was no aspect of the legislation that suggested the Crown had any meaningful intention to facilitate Maori development in it. In the second schedule to the Act , the 'Matters to be Dealt With in District Schemes', Maori and marae are invisible.

Town and Country Planning Act 1953

---

[5] Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, University of Waikato Occasional Paper No. 7 (June 1980) pp. 9-11.

[6] Des Kahotea, 'Western Bay of Plenty Urban Development Strategy Study: Technical Report 8: Taha Maori; Maori Perspectives' (Report Commissioned by the Town and country Planning Directorate: Ministry of Works and Development for the Bay of Plenty United Council, May 1986) p. 15.

[7] Geoffrey Rice (ed.), *The Oxford History of New Zealand*, (Auckland, OUP, second edition 1992), p. 259.

Second Schedule

Matters to be Dealt With in District Schemes

1. The zoning or definition of areas to be used exclusively or principally for specified purposes or classes of purposes.
2. The preservation of objects and places of historical interest or natural beauty.
3. The designation of reserves and proposed reserves for national, civic , cultural , and community purposes, for afforestation and water catchment purposes, for recreation grounds, ornamental gardens, parks, and children's playgrounds, and for open spaces.
4. The designation of open spaces for purposes of value to the community on land not intended to be owned by the Council.
5. Public access from place to place, car parks, transport terminals, aerodromes, and public transport systems, including their creations, establishment, closing, removal, alteration and diversion; traffic routing; the co-ordination of street widths with land uses and population densities; off street provision for vehicles while being loaded or unloaded or standing; the fixing of building lines in relation to highways.
6. Sewerage, drainage, and sewage and rubbish disposal.
7. Lighting and water supply.
8. Buildings, with particular reference to -
   (a) Their position on allotment and in relation to any highway and to other buildings.
   (b) Their density, use , character, height, and harmony in design and external appearance:
   (c) Verandas in commercial streets:
   (d) Open space about buildings:
   (e) The fixing of building lines for amenity and other purposes
9. Provision and preservation of amenities, including regulation and control of outdoor advertising displays.
10. Control of subdivision, including restraint upon unnecessary encroachment of urban development on land of high actual or potential value for production of food.
11. Land subdivisional standards in relation to any permitted land use.
12. Minimum site areas and dimensions in relation to uses of land and buildings.
13. Ancillary or consequential works and all other matters involved in town and country planning.

Sections 10 - 13 of the Town and Country Planning Act gave local councils, - in this case the Tauranga Borough, County and Mt. Maunganui Borough Councils, the power to determine how marae land could be developed, without suggesting the way in which they were catered for under the legislation might have to be different from Pakeha developments. The Western Bay of Plenty Councils chose to interpret their responsibilities narrowly and as a consequence greatly impinged on marae development. Specific examples are examined later and in Stokes who looks at the

development of the Tauranga County's development of Marae Community Zones from the early 1970s.[8]

The Town and Country Planning Act 1977 consolidated the legislation, and provided an explicit planning responsibility to provide for marae under Section 3 of Schedule II.

Town and Country Planning Act 1977

Second Schedule
Matters to be Dealt With in District Schemes

1. Provision for social, economic, spiritual, and recreational opportunities, and for amenities appropriate to the needs if the present and future inhabitants of the district, including the interests of minority groups.
2. Provision for the establishment or for the carrying on of such land uses or activities as are appropriate to the circumstances of the district and to the purposes and objectives of the schemes.
3. Provision for marae and ancillary uses, urupa reserves, pa, and other traditional and cultural Maori uses.
4. Provision for the safe , economic, and convenient movement of people and goods, and for the avoidance of conflict between different modes of transport and other land or building uses.
5. The preservation or conservation of
    i) Buildings, objects, and areas of architectural, historic scientific, or other interest or of visual appeal.
    ii) Trees, bush, plants, or landscapes of scientific , wildlife or historic interest, or of visual appeal
    iii) The amenities of the district.

6. Control of Subdivision
7. The design and arrangement of land uses and buildings including -
    a. the size, shape, and location of allotments:
    b. The size shape, number, position, design, and external appearance of buildings:
    c. the excavation and contouring of the ground and the provision of landscaping, fences, walls, or barriers:
    d. The provision, prohibition, and control of verandahs, signs, and advertising displays:
    e. The provision of insulation from internally or externally generated noise:
    f. The location, design, and appearance of roads, tracks, cycleways, pathways, accesses and watercourses:
    g. Access to daylight and sunlight:
    h. the requirements of sections 24 and 25 of the disabled Persons community Welfare Act 1975.

---

[8] Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, University of Waikato Occasional Paper No. 7 (June 1980).

8. The avoidance or reduction of danger, damage, or nuisance caused by -
    a. Earthquake, geothermal and volcanic activity, flooding, erosion, landslip, subsidence, silting, and wind:
    b. The emission of noise, fumes, dust, light, smell, and vibration.

9. The relationship between land use and water use.

10. The scale, sequence, timing and relative priority of development.

The importance of Maori relationship with their ancestral land was further emphasised as a matter of national significance in Section 3 (1) g.[9]

While there was a requirement to plan for marae and ancillary development, there was little specific to help Councils decide what this meant. In 1973, before the legislation was passed, Tauranga County developed a Marae Community Zone, which allowed a multi purpose use for existing marae, but as a consequence of earlier decisions, it did not facilitate large scale subdivision on traditional lands. Rather it allowed for the development of marae, with a small number of residents on the land as an ancillary use, while the greatest number of hapu members lived some distance away on individualised blocks of land.

Finance

Restrictions on marae development were considerable and arose not only from zoning, but from the nature of multiple ownership. In general finance companies and the Crown would not lend money for housing on land held in multiple ownership.

> From the 1890s Maori attempted to control the land sale process, to achieve some form of self-government and gain access to capital for development. The last goal was thwarted by the refusal of successive governments and finance companies to adapt their lending systems to recognise Maori understanding of land occupation and use rights. The State Advances Office was no more willing than any other institution to lend on Maori titles, only landowners who partitioned land and (or) had a single certificate title were eligible for State Advances Funds.[10]

The exception had been the Crown's lending for land development schemes, but in that situation the owners rights were suspended, for the duration of the scheme, and there was the possibility that the Crown could recover the debt by the sale of land, although this was never done.

Rating

Local Authorities are funded by rates, which in most cases are assessed on the basis of land value. The assumptions behind valuation is that worth is assessed as what the land could be sold for if it were immediately up for unencumbered sale. The problem for

---

[9] Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, p. 23.
[10] Gael Ferguson, *Building the New Zealand Dream*, p. 98.

multiple titled land is that this is rarely the case and there have been successive attempts by Maori owners to argue that their land should be differently assessed.

Where the value of surrounding land increases, then so do the rates for the area. In the case of Maori freehold this means that the costs of maintaining that land increase, even though it was often not practical to develop the land, and culturally unacceptable to sell it. This tension was particularly acute in Tauranga in the post-war period as rapid urban expansion and horticultural development lead to an escalation of land process for both rural and urban land. These pressures could be dramatically intensified when land was re-zoned. An urban residential zoning automatically greatly increased valuations. In fact many Tauranga Maori feared the almost inevitable alienation that followed.

> Generally, residential zoning of Maori land is viewed as compulsory alienation. Once zoned it inevitably becomes subdivided for residential use, sections sold, and the land rarely comes back to Maori ownership.
>
> Landowners have the opportunity to sell land for the financial benefits they receive from the sale of land, but this is rarely done reflecting the reluctance to sell ancestral land. Large numbers of owners of some land mean lower financial benefits to individuals.
>
> Urban valuation accentuates rating problems associated with multiple owned land. The incentive for organisation or management of Maori land is lacking because of the perceived inevitability of alienation and the prospect of little future economic benefit. When zoned for residential development that is the only economic use.[11]

[11] Des Kahotea, 'Western Bay of Plenty urban Development Strategy Study: Technical Report: Maori Perspectives' (Report prepared for the Town and Country Planning Directorate of the Ministry of Works and Development for the Bay of Plenty United Council, May 1986), p. 15.

Section 2: Attempts By Tangata Whenua To Re-house 1935-72

Judea

Judea was the first of the County marae to be incorporated into the Borough. It was brought into the Borough in the late 1940s[12] Stokes quotes a 1950s description of Judea by Maharaia Winiata:

> There are three geographically separated settlements which comprise the Huria village community: Huria proper (the word is Maori for Judea). Te Reti one and a half miles from Huria, and Matahoroa half a mile from Huria. The people of these three settlements - totalling 276 in 1951 - make up the Ngaitamarawaho subtribe of the Ngatiranginui tribe . . .
>
> The marae complex consists of a meeting house, an open area of ground immediately to the front of the meeting house, a two storey dining hall, a communal bath and a sanitary building. During gatherings and ceremonials the people assemble at the meeting house, and there they talk and sleep on mattresses covered with sheets spread over finely woven mats. When the people of the village community recline with their guests, the door is closed, and they feel secure in the bosom of their ancestor Tamapokaiwhenua, after whom the meeting house is named. The two-storey hall is situated directly in from of the meeting house. The upper room is called Iwipupu, the lower Ihuparapara, after Tamapokaiwhenua's two wives - appropriate enough for the function here is to offer hospitality to visitors to the village.
>
> There are two church buildings in the Huria settlement. One is a modern style Mormon chapel, built mostly with American finance, standing on church property close to the marae centre. The other is the Ringatu church building, in a style similar to that of the meeting house, and situated on private property in the settlement. In other village communities, church buildings and school are usually considered part of the marae complex. At Huria, however, where there is more than one denomination supported by the people, the church, though a public institution, stands apart from the marae. The Maori school attended by the younger children is attached to the Peterahama village a few miles away.
>
> About three-quarters of a mile to the north-east of Huria is a small island . . . Motuopae is tapu. To the people of the village community, it is an integral part of the marae complex. Whenever member so of the group dies, be it in the city of Auckland or in some distant part, they must be returned for mourning at the meeting house and for burial at Motuopae. The network of social relations focused on the marae includes the dead members of the village community as well as those who are living. Although additions have been made to the marae complex in the form of new buildings and European-derived conveniences, the

---

[12] Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, University of Waikato Occasional Paper No. 7 (June 1980) pp. 11-13.

social significance of the marae remains in the past; it is the kohanga, the cradle of the subtribe.[13]

The re-housing of Maori at Judea pa was undertaken by the Maori Affairs Department in the late 1950s, at the same time as the land came in to the Borough. It is clear from Council and Departmental correspondence that this was seen as an opportunity to forge ahead with integration of the two communities.

Judea Pa
The proposals in the Judea Pa have been under consideration and action by this Branch and the attached hereto and marked 'A' is a copy of a letter sent to the County Clerk , Tauranga County Council, of the results of a meeting held with the people at Judea Pa on 9 November 1960. This letter sets out the nature of the discussions and conclusions arrived at with the owners.

Since that date following a sitting of the Maori Appellate Court at Tauranga, the opportunity was taken by Judge Prichard and the Consolidation Officer to discuss with his Worship the Mayor of Tauranga and the town Clerk, the proposals for Judea Pa, as advice had been received from the County Clerk that the transfer of Judea Pa to the Tauranga Borough was imminent and that further discussions should be taken with the Borough.

At that meeting the Mayor and Town Clerk pointed out that they would be prepared to accept a roadway through the Pa of a width of 50 feet and with a formation of 24 feet. They also suggested that some of the proposed sections should be reduced in area to a minimum of say 27 to 28 perches. This is the basis that the scheme will now be proceeded with it will be only under these conditions that the Borough will accept dedication.

Maori Settlement:
The question of integration in Maori settlements is a most difficult problem. The reluctance of the Maori owners to make the land available for sale in these areas together with the difficulty of obtaining suitable types of Europeans to go into sections that may be available in such areas, appear to be factors against this policy [(crossed out) it would therefore seem that these must remain purely settlements for Maoris where housing improvements should be carried out.) [(then in had writing) See D.O's memo 6 December]

"Pepper-potting" new houses in town areas for Maoris who have no sections of their own, can be the beginning of integration and could be the guide for its future application. Indeed (for) integration to be successful, it should not be just a matter of housing placements but rather that the people who are to be available for its implementation are those who can harmonise into the European pattern and are able to discharge their obligations on the same basis as their European neighbours.

---

[13] Maharia Winiata quoted in Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, p. 13.(Document Bank pp. 93-5).

> Education in the widest sense is the keynote of successful integration and the Maori people today are making great advances in this field so that the future holds much promise.
>
> Maori lands that are available and suitable for housing should be utilised for the owners themselves, as far as possible, due regard being given for its proximity to the modern amenities that are now considered to be necessary in any progressive housing settlements. The basic idea seems to be that Maori people should first be housed on their own lands - provided that these lands are suitable for housing development - and that the necessary finance should be made available so that they are able to obtain titles that can attract State investment. In attacking the titles problem that exists everywhere we propose to find a way wherever we can to have a reasonable number of sections sold to Europeans. The attendant charges in connections with the development of Maori land to provide housing sections are in most cases so far as Maoris are concerned much less than the cost of purchasing section in town areas.
>
> While the prime purpose of better housing for the people, it does also meet the question of the proper utilisation of lands that are at present unoccupied. The matter is a problem that is being brought forward more and more by the action of County Councils in applying to the Maori land Court for rate charging orders and receivables.[14]

As can be seen in the above extract Maori Affairs and the Tauranga City Council saw the subdivision at Judea as an opportunity to advance integration and satisfy the city need for greater residential area. Stokes demonstrates how in general these urban uses came to dominate the development of Judea from the 1940s and how by 1960 this had impacted on residential plans. There were still clusters of Maori housing at Judea and Te Reti on Cambridge Road, but most of the tangata whenua of Huria had been "pepper-potted" through the residential areas of Otumoetai of Greerton.[15]

This had been achieved in re-housing undertaken by the Department of Maori Affairs in the late 1950s and early 1960s.[16]

Whareroa

Rather than précis this attempt to re-house Tauranga Maori the author has quoted a considerable section of a 1959 report by the Maori Trustee to the Minister of Maori Affairs in which he lays out in detail the proposal to develop the land for residential sections and the subsequent taking of the land under the Public Works Act for the aerodrome and the port. While the Maori Trustee was the owners' agent in this

---

[14] MA series 1, 30/3/130 part 2, Registrar of Maori Land Court Rotorua to Head Office Maori Affairs, 1 December 1960.

[15] Haare Williams, *The Maungatapu Experience: A Visit to the Maungatapu Marae by the Auckland City Council, 1977* (Auckland, 1977), p. 57.

[16] Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth,* pp. 11-14.

debacle, the restatement of the facts up the time of the Privy Council case were largely agreed.

Whareroa Compensation Case

1. This case relates to the various blocks of Maori Land lying in the vicinity of the port at Mount Maunganui, including Whareroa 2E 1,2E 2, 2E 3A and other adjacent blocks. The total area is 91 acres 1 rood 24 perches. The land was considered for development by the Stout-Ngata Commission of 1908, and was held by the Commission to be suitable for permanent Maori occupation and to be vested in part in the Maori Land Board for general settlement. There was a statutory provision at the time that land held for general settlement was to be divided one half to be sold and the other half leased.
2. This land lay in its natural state adjacent to the deep water at Mount Maunganui until 1926 when development of the Bay of Plenty caused the Government to consider whether or not a port should be created at Tauranga. A Harbour Commission was set up in that year to determine whether the port should go to Tauranga or to Mount Maunganui, but that owing to the financial state of the country at that time the matter should be deferred.
3. So the position remained throughout the depression years and until 1947. During the war years and immediately afterward there had been development in and around Tauranga, the hinterland of Rotorua-Taupo, and the forest areas of Kinleith and Kaiangaroa. The township of Mount Maunganui was expanding at a terrific rate and the pressure of demand caused large holdings in the hands of European holders to be cut up and sold at high prices. The population of the township of Mount Maunganui increased rapidly and the owners of the Harbour Ferry Company conceived the idea of instituting a vehicular ferry service from the north end of the Tauranga peninsula to the Aerodrome Wharf adjacent to the Whareroa land. As a result of representations made by the Ferry Company for a road line across the Whareroa land, Judge Harvey of the Maori Land Court called a conference of interested parties to institute a subdivision of the Whareroa land adjacent to the road line, so that the Maori owners could reap the benefits of sub-division and sale that were being achieved by their European neighbours. On May 18th, 1948 Judge Harvey instructed Mr. H.O. Cooney to arrange a meeting with the Tauranga County Clerk and Engineer, Mr. Cooney and himself to discuss the questions arising out of a roading programme in such sub-division. As a result of this conference Mr. A. M. Linton, the Development Office attached to the Maori Affairs Department, was instructed to prepare a Scheme Plan of subdivision in accordance with the proposals and standards laid down by the Judge and in compliance with the Local Authority's requirements. Simultaneously application was made on behalf of the owners to vest the land in the Maori Land Board for the purpose of sub-division and sale. The subdivision of these Maori lands was a small phase of a large and complex problem, the solution of which could bring enormous advantages to the owners and to the district as a whole.
4. On the 15th day of July, 1948 the Maori Land Court made an Order under Section 8 of the Maori Purposes Act, 1943 vesting certain subdivisions of the Whareroa Block in the Waiariki District Land Board upon trust to road and subdivide the land for sale as building sections. Before this order became effective, the consent of the Minister of Maori Affairs had to be obtained.

5. At this stage the European subdivisions adjacent to the Whareroa were proceeding apace. On one day in December, 1948, 81 sections were sold by the simple process of inserting an advertisement in the papers that the Vendor and his Solicitor would be present at Mount Maunganui to sign up purchasers wishing to acquire sections in the area.
6. Upon the basis of similar sales and the cost of providing roads up to the County Council standards of that time, the net return which could have been confidently expected was a sum which would rehabilitate the owners and establish them upon lands at Matapihi and elsewhere. These other lands were themselves a problem vexing the County Council by reason of non-payment of rates and poor housing standards.
7. It is interesting to note that the solutions to these problems bear considerable similarity to those determined by the Stout-Ngata Commission of 1908, i.e. to sell some land to provide means of improving other land and to provide housing for the benefit of Maori people.
8. On 27th July, 1948 the Order made by the Court on the previous 15th day of July was submitted to the Minister of Maori Affairs, the Right Honourable Peter Fraser, for the necessary consent. On 30th July, 1948 he minuted the papers

> "Please ascertain what are the proposals of the Forestry and Works Department in respect of rail and harbour development in connections with the Murupara Forest Products etc., scheme".

Details of the proposals and a sunprint of the proposed subdivisional scheme were then sent to the Minister of Works and Director of Forestry for any suggestions as to amendments needed to tie in with their proposals. The Director of Forestry replied on 25th August 1948 that in his opinion the whole area should be acquired by the Government and not subdivided at that stage.

9. In order to expedite the grant of consent by the Minister of Maori Affairs, the President of the Waiariki Board of Maori Affairs waited upon the Minister, produced the plan of the subdivision, and explained the purposes of the trust, with particular emphasis on what appeared to be the cardinal point in its favour, i.e. the rehabilitation and re-establishment of the Maori people from their own resources instead of monies loaned by the Crown. Mr. Fraser was keenly interested in the proposals. He stated that he had in his mind that certain land would be required in that area for public work, and if this were so, the Crown would naturally acquire it. The President of the Board said that the identity of the purchaser was immaterial to the Maori Trustee provided the Crown paid the same prices that could be netted from the sale of allotment so the public. Mr. Fraser agreed, his exact words being -

> "Oh! Surely, the State must have the land if it requires it, but it must also pay as much as can be got by the owners from anyone else."

10. In the next three years the Board could make no progress towards carrying out the trust accepted by it. Frequent and various proposals were advanced by the Ministry of Works or the Regional Planning Authority, e.g. alterations to the aerodrome with a runway pointing straight for Mount Maunganui, or a railway sweeping in a wide arc throughout the proposed subdivision so that trains could run head on alongside

shipping. None of these proposals, naturally, ever came to anything, but as the necessity for each was advanced at the time as a fatal objection to the Scheme proposed by Mr Linton. This all consumed time, which in the light of after events cost the Maori owners the difference between what Mr. Fraser recognised was due to them and what by rigour of the new law they were afterwards required to accept, that is, not the price at which they could have been sold to the public, but at the price which a speculator could buy the land as a block but the necessity.

11. It was theorised that the speculator, after doing the very things that the Maori land Board was poised to effect as its statutory function without cost to the owners, could pocket 30% of the gross realisation figure plus interest both on outgoings and on the value of the land in its original state.
12. On the 30th June, 1950 representations were made to the Hon. E.B. Corbett by a deputation which discussed the position with him. Mr. H.O Cooney submitted to the Minister that Pakeha owners contiguous to the Maori sections had sub-divided their lands and sold the sections. Many of the Maori Owners were in need of money to improve their housing and economic position, but their plan had been held up for two years because of some undefined possible future plans, although there was no knowing whether it would be for 10 or 20 years in the future before their land would be required by the Crown. The Minister agreed that the Maori people could not be expected to wait for a decision indefinitely. If any of the land required to be taken in the public interest the matter should be thoroughly investigated without delay.
13. On the 18th August, 1950 a scheme plan of subdivision was sent down from the Rotorua office for the Minister's approval under the Land Subdivision in Counties Act, 1946. This had been approved by the Surveyor-General as a satisfactory plan, and on the 17th day of August, 1950, the Hon. E.B. Corbet had written to the Minister of Works advising him that he was in favour of the proposed scheme but was withholding his approval until after the Committee of Enquiry had investigated the necessity of works at Tauranga.
14. On the 14th June 1951 Mr. H.O Cooney wrote a letter to the Minister of Maori Affairs protesting at the delay in dealing with the plan. When he had been in Wellington the previous year the principal objection to the approval of the plan had been the projected site of the new railway branch which appeared to traverse the subdivision and effectively destroy it. Since then the railway proposal had been abandoned but other ideas had been put forward by the Forest Service and the Tauranga harbour Board.
15. On the 13th September, 1951 a notice was published in the Gazette at page 1377 of intention to take some 19 (sic 91?) acres of the Whareroa Block, and on 6th November, 1951 the Commissioner of Works suggested that the Vesting Order of 15th July, 1948 could now be approved if the area on the notice of intention were excluded. The reason given for suggesting such exclusion was that otherwise it might possibly have a bearing on the amount of compensation. However, the Minister approved the whole order on 21st November, 1951.
16. After the land had been taken by the Crown compensation therefore had to be assessed by the Native Land Court. When the case had been heard it became apparent that a legal point of some difficulty would arise in view of the conflicting judicial decisions as to the correct basis upon which to work out the measure of compensation. The principal point was whether if the land was potentially subdivisable but not actually subdivided at the time of the taking the amount of

compensation should be based upon the owners or the taker getting the "Subdivider's Profit". A case was stated for the Supreme Court and this was moved into the Court of Appeal, and eventually an appeal was made to the Privy Council, which decided that the taker was entitled to the subdivider's profit. The Maori Trustee's costs in the Privy council were F 2,191.0.6 for his counsel, and the Crown Law office was awarded F975.6.0 against the Maori Trustee.

17. In the proceedings before the Maori Land Court it was established that the most profitable possible use of this land from the point of view of a possible purchaser would have been to subdivide it for residential purposes. The court worked on hypothetical figures, but there are now actual sales to go upon. It is generally known that the Bay of Plenty Fertiliser Company will be paying F 2,500 per acre for its area of 20 acres. This is a useful guide because no development work was done on the land before the Fertiliser Company took over except for clearing off of vegetation at very small cost. Much higher prices are to be paid for other sections of the block but in these instances the Ministry of Works can claim to have spent large sums of money on development. This is no doubt correct, as the levelling is of a very high standard for the purpose in view and the work was done at ruinous rates - Sunday work on triple rates of pay and similar expenses. If the Fertiliser Company price of F2,500 per acre for undeveloped section is taken as a basis, and the deductions made by the Maori Land Court for roading costs, development, survey, other expenses and contingencies are accepted, and the legal expenses and commission are doubled because these increase in proportion to the price of the sections then the return on sale of the subdivision would work out as follows

Gross realisation value of land		242,297	
Less 7.5% for reserves		18,172	224,125
Expenses			
Commission on Sales		12,000	
Legal Expenses on Sales		1,500	
Development-clearing	1,700		
Road formation	20,000		
Footpaths formation	1,720		
Stormwater drainage	1,860		
Water supply	7,300		
Levelling	3,225	35, 805	
Legal expenses and survey	1,580		
Contingencies	1,790		
Engineering survey (roads)	400		
Engineering fees (supervision)	1,840		
Rates (2.5 years)	1,250		
Land Tax	500		
Advertising	500		
Interest on expenses (F 43,665 at 5% for 2.5 years)	5,458	62,623	

18. Of the 96 acres 3 roods 27 perches covered by these calculations there was an area of 5 acres 2 roods 03 perches of European land the owner of which had agreed to bring it into the Maori land Board's scheme. The sum of F161, 502would therefore be reduced to 91.4/96.91875 of this amount, or the sum of approximately F152,305. In (sic if) the award of interest at 5% for 6.5 years was allowed and this would increase the figure from F152,305 by F 49,497 to F201,802. In its calculations the court allowed 30% profit on the expenses of F43,665 and 30% profit and interest at 5% for 2.5 years on the purchase money a hypothetical purchaser would have paid and the actual compensation awarded by the Court was F36,848. Had the Maoris retained their land and subdivided it themselves under the scheme proposed they could have expected to receive themselves the amounts of interest by which the Court award was reduced. Funds had been earmarked for lending at normal rates by the Maori Land Board.
19. The above is the result if the hypothetical purchaser were a European. If the hypothetical speculator purchaser were a Maori - and there is no legal presumption that he must be a European - he would not be required to provide a waterfront reserve on addition to the usual contributions for reserve. The Maori Speculator would therefore be provided with nearly another four acres for sale. The value of the additional four acres would increase the amount due to the owners by a net figure of F8,831 bringing the grand net total to F210.633 (i.e. F201,802 as shown plus F 8,831 for the additional acres.)
20. The Maori owners feel that while the decision of the Privy Council is no doubt correct in law, they were the victim of the unfortunate delays which occurred in the approval in the Order of the Court and of the plan of subdivision, into which the Privy Council refused to go. Such delays occurred for reasons that were not statutory reasons for withholding the Minister's approval to an order under Section 8 of the Maori Purposes Act 1943 'is the Minister's opinion that the order is not in the interest of the Maoris affected by it'. Similarly the Chief surveyor had indicated that the Maori Land Board's plan of subdivision complied with the requirements and principles of the Land Subdivision in the Counties Act, 1946 and if the land had been European land it seems likely that an appeal against the Minister's non-approval would have been successful.
21. It would appear that there is merit in the contention that the Maori owners have suffered a measure of injustice as a result of the course which this matter has taken. They have taken their case to the highest Court of law, but have received the answer that the Courts are not entitled to speculate on what would have happened if earlier approval had been given, as there might possibly have been some conditions imposed.

    It seems certain that if the claim is not met in some manner by the government there will be a Petition to Parliament, and I am reporting the matter to you in case you may feel that it would be wise and would promote better feeling if the Government were to negotiate some form of settlement of the claim before it becomes the subject of a Petition. It might be reasonable in the circumstances to

offer a total sum of say F 100,000 to the Maoris in full satisfaction of their claims, and also to waive payment of the Crown Law office's bill of costs for F975.6.0.[17]

The author is unclear what if any 'compensation' was granted. There was nothing on file to show this. The wider point is Tauranga Maori attempted to re-house using their own capital, i.e. the land, and their efforts were deliberately subverted by the Crown's use of the Public Works Act.

Council Zoning and the Housing Act

The restrictions that the Tauranga County and the Borough put on subdivisions brought considerable pressure Maori owners to part with their land. This was done in two broad ways. The first was that Tauranga Maori were unable to house their people on their rural marae, because the County was unwilling to accept dispersed subdivision. The mayor argued that in refusing to allow a subdivision, he was merely supporting central government's integration policy as espoused in the Hunn report, although one should note that nowhere did the Mayor claim formal government backing for such an interpretation.

MATAPIHI MAORIS WANT LAND SUBDIVIDED IN AREA

Segregation and integration of Maoris at Matapihi were discussed at the Matapihi school last night, when more than 70 residents of the district , called together by the Tukairangi tribal committee, held a public meeting.

The Tauranga County Chairman, Mr. A.G. Spratt, and other representatives of the county, attended the meeting, which was convened to enable the residents, the tribal committee and county representatives to discuss subdivision of land in Matapihi and other matters.

Chairman of the meeting was Mr T. R. Te Kani, who said the meeting was the outcome of and application by the tribal committee to the county, to subdivide a block of land into 32 sections.

The people of Matapihi were disturbed, said Mr Te Kani, that during the last four years only two houses had been built in the district. Matapihi had a population of about 600.

The main trouble was that there was no subdivision, and "it is a very poor effort on someone's part, Mr Te Kani said.

"The result is", he said, " that some of our people have been transplanted into some-body else's' backyard - like Tauranga and Mount Maunganui."

In appealing to the county to allow Matapihi to have some sort of subdivision scheme, Mr Te Kani said: "Most of the people at this meeting own land here. "(sic)They feel very strongly that they have to go afield to find shelter and homes."

Zoned Rural

Mr Spratt emphasised that Matapihi was zoned as a rural area six or seven years ago.

---

[17] National Archives, AAMK 869/60b, Maori Trustee to Minister of Maori Affairs, 'Whareroa Compensation Case', undated but circa March 1959, (Document Bank pp. 44-8).

"Subdivide land in Matapihi and its Maori residents could possibly go the way of the black race in South Africa - become segregated - with the blacks at Matapihi and the whites on the other side of the water', said Mr Spratt

"The Secretary of Maori Affairs, Mr H. K. Hunn, wants to integrate further the Maoris and pakehas. If you as a race insist on living on your own, the time will come when your position will be the same as that of the black South Africans.

"We are all New Zealanders," said Mr. Spratt, 'and I believe that in two generations your people won't want to live separately. The Minister and his department believe that a great many young Maoris don't want to go back to the country."

"The Minister, the Maori Affairs Department and this council", said Mr Spratt, "believe that a number of young Maori should live with pakehas (sic) in the cities."

Easy Way

"The easy way for us as, as a council, is to grant your application - the hard way is to deny your request," he said.

Mr Te Kani said the Maoris in Matapihi did not want segregation and they did not want over-development in the district.

"Anyway", he added, "I don't think you can stop integration - our girls are too pretty."

The county clerk, Mr. E. M. Fox, asked Mr Te Kani if any Europeans living outside Matapihi were "pressing for sections." Did the pakehas want to buy the sections?

Mr Te Kani: not to my knowledge. The last thing the Maoris want to do is sell their birthright.

Mr. Spratt told the meeting that the Maori Affairs Department intended, in future subdivisions, to earmark some sections for pakehas.

The Maori welfare officer for the Tauranga district, Mr. I. Tangitu, spoke on the subject of "pepper-potting" the two races. Some of the Maori people are now ready to integrate with the pakeha people," he said.

Mr Spratt: We believe this land is too good for housing. It may be the future market garden of the area of Tauranga and Mount Maunganui.

He suggested to the tribal committee that through the court, it consider the amalgamation of all Maori land in Matapihi. It would be the only practical solution whereby the Maoris could retain their ancestral land for future generations.

Mr Spratt said the county council would look into the matter, and that subdivision could be expected to be approved.

A letter, from the county to the Maori Affairs Department was read. In it, the council said it would not withhold consent to a subdivision scheme involving 65 sections in Matapihi. [18]

On the one hand the county was unwilling to consider a subdivision of 32 sections for tangata whenua, but it was willing to consider a subdivision of 65 sections - large

[18]MA series 1, 29/4/11, clipping from *Bay of Plenty Times* 12 April 1961, (Document Bank p. 83).

enough for there to be sections available for pakeha. It is quite clear from this that the county saw it as their duty to frustrate marae development and to facilitate what they termed integration, even where a hapu had the resources to re-house their own.

This refusal to consider a Maori subdivision on ancestral lands took place within the context of a concerted campaign by the Borough Council to have Matapihi brought within the Borough to facilitate the expansion of the city and provide future residential space. Local Maori knew of this agenda. They despaired that the move would see increased pressure on them to sell their lands. Below are two letters sent by the Hon. Secretary of the Ngaiterangi Tribal Executive, W Ohia, to the Maori Trustee and Secretary for Maori Affairs respectively, pointing out Maori concerns at Borough expansion.

> Dear Sir,
>
> It is with concern the Maori people of Tauranga and Matapihi in particular, view the spread of the Tauranga and Mount Maunganui Boroughs into their tribal land boundaries. This concern is the natural aftermath of the Whareroa Block decision, the compensation being based, you may recall, on a block valuation, without consideration of its potential industrial valuation. The spread of these respective Boroughs could, we fear, possibly bring about a repetition of this case, when the expansion of Tauranga and Mount Maunganui is viewed from the long term aspect and further industrial needs will require additional lands.
>
> As with the Whareroa Block our Maori land titles have proves insufficient protection against civic expansion. . . [19]

> Dear Sir
>
> I wish to thankyou for your reply dated 27th February. In my letter I pointed out the Whareroa Block decision, the result of which has prompted my people to search every avenue for a safeguard against a possible recurrence of a virtual confiscation of this nature, over their remaining acres of land surrounding the Whareroa Block mentioned earlier. The spread of the Tauranga and Mount Maunganui Borough Councils have created amongst my people, a major concern based on the following reasons.
>
> 1. Fear of confiscation.
> 2. The unfair basis for compensation, taking the Whareroa Block as an example.
> 3. The proposed siting of the Borough Council Sewerage Scheme adjacent to the Matapihi Peninsula.
>
> We therefore offer for discussion at the proposed meeting with the people on the Whareroa marae , the following suggestions -

[19]MA series 1, 29/4/11, W, Ohia, Secretary Ngaiterangi Tribal Executive to Mr M Sullivan, Maori trustee, 1 February 1959.

1. The Department to undertake the consolidation of the Maori land titles in Maungatapu and Matapihi.
2. The Department to support the formation of an incorporate body to farm a given area of the Maori owned land at Matapihi, together with a subdivision of the remaining area for residential purposes.
3. Compensation of land over the area already entered upon by the Works Department for roading purposes etc., associated with he port of Mt. Maunganui to be facilitated . . .

The Under Secretary for Maori Affairs met with local Maori, in response to the Ngaiterangi's Tribal Executive's request. The meeting was held at the Matapihi School on 8 April 1959. The focus of the Matapihi owners request was consolidation so that they could then more easily subdivide and control their lands. The Under Secretary did not refuse to instigate consolidation but pointed out that the Department had a huge backlog of consolidation work and that it could not start on a new scheme until the others were complete. Despite some initial placatory remarks Mr Sullivan was not sympathetic to Matapihi resident's desire to remain a rural Maori enclave.

> The Department sympathises with you in your desire to keep your lands. Simply because we are a Government Department we are not unfeeling. I understand your attachment to the land. I feel with you personally and my other officers would have the same sentiments. It is my unpleasant duty to have to place the fact before this meeting that changes are taking place in many parts of this country and it is impossible to stand in the way. All citizens, both Maori and Pakeha, must face changed conditions together. There is no special protection for Maoris or other citizens of this country which can be involved. When land is taken under the Public Works Act people affected can only claim compensation through the proper channels, although when there is a deep attachment to the land I will admit that compensation may not be enough. Our Courts exist for this purpose. I am speaking now in the broadest sense and I am not using Matapihi as an instance. Regarding your request for the consolidation of titles in this area I must tell you that we have extensive consolidation schemes which are still not completed. These schemes must be finished before we can turn our energies to fresh ones. I can promise you that consolidation for this area will be the next task undertaken by the Waiariki District. I cannot give a definite date, it would be at least a year or 18 months before we shall begin. We have learned from past schemes that it is not practicable to handle a big area. We must work on small compact areas and complete them with all speed rather than have them dragged on and on.[20]
>
> Housing subdivisions would naturally have to be in roaded areas. Roads would have to be formed and that requires money which .I suggest could be obtained by the selling of certain sections.

[20] MA series 1, 30/3/130, part 2, Minutes of Meeting held at Matapihi School, Tauranga, on the Evening of 8th April 1959., p. 2, (Document Bank pp. 102-06).

While there was no significant subdivision at Matapihi in the early 1960s, neither was it incorporated in the Borough. Despite several attempts by the Borough to take the issue before the Local Government Commission and an acceptance by that body that Matapihi should be in the Borough, polls of local ratepayers consistently voted down the proposal. [21]

Re-housing of Tauranga Maori was primarily the responsibility of the Maori Affairs Department, whose job it was to lend the finance. In the early 1960s the Department experimented with lending on the house only, so that dwellings could be erected on multiple title land. This innovation did not see the decade out but was made some use of by Tauranga Maori.[22] After the incorporation of Maungatapu in 1959 The Borough Council became keen to see that Maori were re-housed. In a 1959 report to the Council the Health Inspector reported n options for moving Maori out of substandard housing. This housing was most often on ancestral multiple title land.

Maori Housing

With the extension of the borough, the Maori Housing position is causing the Council some concern and though the Department of Maori Affairs are charged with the responsibility of Maori housing, the Department would not frown on any co-operation or assistance from the Council.

Points for consideration are

1. Repair, Closing and Demolition Orders. These fall in this sequence and are issued by the Council on a recommendation of the health Inspector or the Medical Officer of Health. If the first order is not complied with, then the Closing order is issued and finally an application is made t the Magistrate's Court for a Demolition order. All notices have to be served on all owners and interested parties in the property. With houses on Maori land this is usually a real problem.
2. Housing Improvement Act. If the local authority is of the opinion that it is impracticable to make a house comply with the regulations, it may order it to be pulled down provided that the local authority is satisfied that suitable alternative accommodation is available.
3. Summarising 1 and 2, if all interested parties could be found and notices served, would the position be improved, or would overcrowding take place in other houses, probably new ones which the Department have gone to a lot of work and trouble to have erected.

---

[21] Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, pp. 18-23. Stokes describes the background to the creation of Marae Community Zones in the Tauranga County in 1973, and then looks at the impact of this phenomenon on Tamaphore, Wakari, Opueora and Wairoa marae.

[22] The issue was raised again in the 1980s by the Labour government. See Ferguson, *Building the New Zealand Dream*, pp. 268-9, (Document Bank p. 78, unclear copy).

4. The Department take out building permits for houses, so if the whare is on the same lot of land as the proposed house, then an order could be placed on the whare. Where they are not on the same lot, then some arrangement could be made with the Department which have every desire to have the whares demolished.
5. Land Problems. Owing to the lack of finance and the number of owners, the subdivision of Maori land has its problems, especially in endeavouring to settle individuals back on separate lots on the same land. The Council may be able to assist these subdivisions by progressive roading schemes, taking over parcels of land and subdividing them.
6. Before any action is contemplated, I recommend that a meeting be arranged between a committee of the Council and heads of the Department of Maori Affairs to discuss this whole position, as I believe the Department would appreciate closer liasonship (sic) and any assistance the Council may be able to give in what is a real and difficult problem. Especially when a large number of Maoris contrary to general belief do want better houses and are willing to work for it, their community spirit could be an advantage in developing subdivisions by voluntary work.

(L.R. Charters)
BOROUGH HEALTH INSPECTOR
22/7/59?(unclear)[23]

There is little on Maori Affairs files as to whether the Council met with Department staff. There is however a record of the Mayor's campaign to have substandard housing demolished. In reporting a Council meeting the *Bay of Plenty Times* ran a story 'Substandard Housing Worries Mayor'. Part of this story is quoted below. The article marked the beginning of a public campaign to remove substandard housing, which was frequently brought up by Mr Mitchell in the years 1960-1963.

> **Mr. Mitchell , who referred particularly to substandard houses occupied by Maoris, said the council should " do more to raise the standard of the Maori" and should eliminate sub-standard housing in the borough area.**
>
> The housing position had not caused undue concern to the council until recently, when further areas were taken into the borough, Mr Mitchell said.
>
> . . .A report on Maori housing has been before the council and 10 closing orders have been issued, but I do not think that the issue of closing orders is sufficient. We should, as a council, do more to raise the standard of the Maori and inquire into the position to see why more houses cannot be built. . . .

Mr Mitchell than proceeded to refer to 8 major points made in the council paper these included:

---

[23] Tauranga District Council Archives, File 16/9 (microfilm 78), L.R. Charters, Borough Housing Inspector, 'Inspector's Report', 22 July 1959.

- That the Maori housing policy is far from satisfactory
- That the Maori is not always conscious of the necessity to appreciate better living conditions
- That a housing project "where Maoris have the right to live and expand" be developed
- That Maoris be subject to strict control by their elders
- That in the housing project a Maori community centre should be built "to encourage the Maori youth in a better way of life, control and outlook"
- That welfare work among Maori women Maori welfare officers be increased
- That the land owned by the Maori community be divided so that individual owners can have title for building.[24]

This last point is key. It was the crux of much of the discrimination inherent in Town planning and lending practices. Houses could usually only be financed if there was individual land ownership and individual responsibility for any loan. By putting pressure on Tauranga Maori to re-house Government and Council officials were putting huge pressure on them to sell ancestral land to finance their re-housing. The timing of the demolition orders cannot be seen as coincidental. It was too convenient for a Local Body keen to re-house Tauranga Maori and more significantly open up Maori lands for residential development.

Maori Affairs at Rotorua estimated that 115 families needed re-housing and the department systematically approached all these people with offers of assistance.

In the Tauranga Borough	
Judea	20
Cambridge Road	25
Hairini	30
Maungatapu	40
Total	115

Adjoining the Borough (County)	
Te Puna	8
Wairoa	10
Bethlehem	10
Matapihi	75

[25]

The Council could and did issue closing orders as set out in the Health Act, 1956, but it would rather take up individual cases with Maori Affairs or welfare agencies.[26] It

---

[24] MA series 1, 30/3/130, part 2, Clipping of *Bay of Plenty Times*, 31 May 1960, (Document Bank p. 108).

[25] MA series 1, 30/3/130, part 2, District officer Rotorua to Head office 'Ministerial housing Representations' 20 January 1960, (Document Bank pp. 92).

[26] MA series 1, 30/3/130, part 2,'Maori Housing - Tauranga City" Confidential memorandum from City Health Inspector to the Mayor, 8 August 1963, (Document Bank pp.86-8).

also rigorously pursued individuals under the Housing Improvement Act, 1945. Of the ten individuals served with demolition orders in early 1960, all were Maori occupants of either Maungatapu Peninsula or Welcome Bay. The housing, while substandard, had not previously been subject to enforcement. Hence the Council's action was a discretionary one, which they chose to undertake as part of a process of cleaning up unacceptable housing conditions. The Mayor in his enthusiasm for individualisation of title must have realised that in bringing these orders, either Maori would have to re-house on their own land and hence have to sell land to raise the finance, or they would have to move. In either outcome the hapu grasp on its traditional lands was weakened.

Maungatapu

Heather Bassett's report on aspects of urbanisation of Maungatapu and Hairini, Tauranga is a detailed and considerable report on how pressure was brought to bear on Maori owners to sell land, and how the role of the council, Maori Trustee and Maori Affairs combined to push owners towards alienation, subdivision and sale. In this case the genesis of the process was the proclamation of a centre line for the Tauranga to Mt. Maunganui motorway. Ironically the centre line proclamation interfered with the Council's attempts to demolish substandard housing. Owners could not seek compensation until the land was formally taken under the Public Works Act, which happened in a haphazard fashion over the following decade.

Kahotea identifies four sources of pressure that urbanisation places on Maori . These are

1. disruptions to the functioning of marae
2. urban valuation and rating
3. alienation of ancestral land
4. residential development

All four came to bear on Ngati Ahi and Ngati He as a consequence of the centre line proclamation. Below is a brief overview of the material covered in section 3 of Bassett's report, that highlights the systematic problems associated with moves to re-house Tauranga Maori.

Maungatapu and most of the Hairini blocks were incorporated into the Tauranga Borough Council on 1 April 1959, almost at the same time as the opening of the Maungatapu bridge. Both areas were bisected by Ministry of Works centre line proclamation issued on 7 September 1959. This defined all the blocks that would be effected and placed a moratorium on sales of that land. Owner rights were frozen over the land and the proclamation carried the subliminal message that the land around the motorways could become valuable residential land.

Owners were in a dilemma. Their land was already more valuable because of its inclusion in the Borough. Potential residential development would further boost the land value. Had Ngati He and Ngai Te Ahi wished to sell this land this could have been perceived as a benefit, but the land was ancestral land and the owners did not wish to be parted withthe land that identified them. Rather they were faced with phenomenal increases in land valuations that would lead to similar increases in rates liabilities. Even

as part of the County much of the land was in rates arrears. Once in the Borough the situation was far worse and unsustainable.

Owners reacted to this situation in a variety of ways. Some did sell immediately to private developers, which left them with no claim to the land, or the chance of a section unless they bought one individually. Maungatapu 1C2A,1G, 1M, 1R, 1S1B, 1S2, 1N, ZV, A3, 1W, 1K2B, 1JA2, 1J1 and the Te Mara Tatahau Blocks were incorporated into one block Maungatapu B and .[27]were placed under trust to the Maori Trustee to develop for sections for sale and for the owners. Bassett goes on to show how only 36 of the 259 sections ended up in the hands of the former owners.

> Although only a small proportion of the owners were able to obtain sections in Maungatapu, all owners benefited from the subdivision to the extent that a proportion of the funds raised was used to pay for the erection of a new wharekai at Maungatapu Marae. This followed a 1972 resolution of the assembled owners that up to 2.5% of the proceeds held by the Maori Trustee should be used to subsidise the funds raised by the Maungatapu Marae Committee for the project. This resolution was amended by the Maori Land Court which directed that the 2.5% requirement should be changed to a set figure of $20,000. However , it should be remembered that the money paid by the Maori Trustee was part of the proceeds of the sales which belonged to the owners anyway, and would otherwise have been distributed to all owners. [28]

The Hairini 8 block was formed by the amalgamation of various Hairini blocks which owed rates to the Tauranga City Council. It was placed under the Maori Trustee, who was obliged to earn an income off it to recover the debt. The trust was widened to include other sections which became Hairini No.7 (14.16 hectares). Unfortunately delays, a change in the City Councils roading plans and commercially uninformed administration by the Maori Trustee meant that the subdivision lost money. Only three owners bought sections in stage one of the subdivision, when that stage was completed in November 1982, the remaining seven were sold on the open market. Stage II began in 1984, but was soon sold as a block.

> The beneficial owners (of whom there were more than 250) were therefore paid their respective shares of the proceeds from the sale of the residue of the block in December 1985. From a total of $209,875.81 the Maori Trustee deducted $11, 214.07 as commission, leaving $197,440 .13 for distribution to the owners. The Trust could not be wound up until August 1987, however , as

---

[27] Tauranga Maori Land Court Minute book 26, 16 September 1965, fols. 207-8 (pp. 207-7) quoted in Heather Bassett, *Aspects of the Urbanisation of Maungatapu and Hairini, Tauranga* (Report Commissioned by the Waitangi Tribunal for Wa1 342 and Wai 370, July 1996), p. 41.

[28] Heather Bassett, *Aspects of the Urbanisation of Maungatapu and Hairini, Tauranga*, p. 48.

instalment payments on the sections sold in Stage I continued to be received and distributed to the owners.[29]

[29]Heather Bassett, *Aspects of the Urbanisation of Maungatapu and Hairini, Tauranga*, p. 61.

Section 3: Conclusion

A considerable State-facilitated re-housing of Tauranga Maori was undertaken in the post-war period. Concurrently rapid urban growth led to the incorporation of rural marae into in to the Borough. This change of status in itself forced adaptation, because it brought many Tauranga Maori under the auspices of the Tauranga Borough, its rating, and planning systems.

The Town and Country Planning Act 1953 conferred on the then Tauranga Borough Council the power and responsibility to create a plan. In that process there was no specific statement as to how the plan should relate to Maori development. While marae were an 'existing use', there was no recognition that marae might have different planning needs than Pakeha institutions, and there was no legal obligation to consult with Maori to assess their needs. By the time a new Act was passed in 1977, there was some specific recognition of the special status of marae. There was also an acceptance that some residents should be allowed to live in a marae vicinity, although this was only seen as an ancillary use. By this time the days of Tauranga urban marae as an immediate centre of Maori population had passed and the change in emphasis in the legislation did not provide any retrospective relief.. The 1977 Act implied a responsibility to consult with Maori and recognised the national importance of the Maori relationship with their lands. In Tauranga this wider interpretation of marae function had been anticipated by the Tauranga County in its concept of the Marae Community Zone, although by 1973 , when the zone concept was adopted the larger debate over whether hapu could remain intact as distinct social grouping s had already been lost and so the concession, while real, was only very partial.

Residential zoning increased the value of Maori freehold land and was accompanied by huge rate increases. Given that the valuation was undertaken based on an unencumbered sale, it failed to take into account traditional ties to the land and Maori unwillingness to sell the lands that identified them. As the Tauranga area grew there was a consistent expansion of the Tauranga Borough (then City) and Mount Maunganui Borough into County lands. With these expansions marae were brought into the urban area. Tauranga Maori equated urban zoning with enforced land sales as owners became overburdened by increased rate demands. The Maori lands affected included Judea, Whareroa, Maungatapu and Hairini, although Matapihi successfully stayed outside the Borough until the major local body reorganisation under the Lange-Douglas Labour Government.

The 1950s failure to develop Whareroa lands for residential sections to help re-house the Maori owners, many of whom lived at Matapihi, cast a shadow over all future moves to re-house Tauranga Maori and significantly reduced the asset base of those owners affected. The fact that Government considerably benefited from withholding permission for the Maori Trustee to subdivide may have been legally justifiable but it was morally inexcusable and politically cynical. It forestalled a genuine attempt by the owners to improve their conditions and contributed to the insistence by Matapihi Maori that they wanted to take charge of their own future by remaining outside the city and at arms-length from the threat of residential development. The re-housing of Maori at Judea was probably the most successful. While the County had allowed for a sub-division that retained a significant number of houses on traditional land, much of it

on individualised title, which could be alienated at some time in the future. Many Judea Maori were re-housed in the neighbouring suburbs of Greerton and Otumoetai, either on purchased sections or in state housing. While many of the individuals concerned ended up living an 'integrated ' existence in predominantly Pakeha neighbourhoods, they were relatively close to the marae and often on former customary lands - albeit alienated customary lands.

Land sales and residential development was facilitated on the Maungatapu peninsula and at Hairini by the inclusion of these lands in the Borough and the building of the bridge and motorway. Residential subdivision was greatly facilitated by the fact that a considerable number of blocks of land had rates debts for which charging orders were taken by the Borough. Maori Trustee administration was generally poor and of a total of 259 sections formed in its Maungatapu subdivisions, only 36 were purchased by Maori. Most of those purchased were in the vicinity of the marae. The poor financial returns from development further undermined confidence in the State.

The role of the Borough/City Council in re-housing was one of an enthusiastic supporter. The Council was in a win/win situation because, for re-housing to occur it had to be n individual title, on which it could more easily collect rates. If Maori freehold land was ultimately sold this too would facilitate rates collection. By enforcing housing and health legislation against substandard Maori housing the Council found it could speed up the process.

Enforcement was a minor factor in the Council's power compared with it ability to facilitate sales of Maori freehold by zoning it residential. Once inside the Borough Maori owners were consistently unable to retain non-residential zoning. The one glaring example of owners who managed to buck the system was Matapihi, where the Maori residents were sufficiently organised, and in a majority, that they demanded a poll every time the Council attempted to incorporate the peninsula within the city. Each time a poll was taken the local voted against becoming part of the Borough/City.

Most Maori freehold land owners found that the regime in the scheme did not adequately allow them to develop their lands. In this period marae moved from being living centres of population, to institutions that were occupied less intensively. While the 'fires were kept warm' this was in spite of the best efforts of the local Councils to reduce the significance of marae. When some recognition was given with the Marae Community Zone, it was belated and after the key re-housing decisions had been taken. Even the Zones relegated marae living to an ancillary use, and so made it clear that it was there as a vestige, rather than a reinforcement, of marae living.

Bibliogrpahy

Published

Heather Bassett, 'Aspects of the Urbanisation of Maungatapu and Hairini, Tauranga' (Report Commissioned by the Waitangi Tribunal for Wa1 342 and Wai 370, July 1996)

Gael Ferguson, *Building the New Zealand Dream*, (Palmerston North, Dunmore Press and the Historical Branch of Internal Affairs, 1994)

Des Kahotea, 'Western Bay of Plenty Urban Development Strategy Study: Technical Report 8: Taha Maori; Maori Perspectives' (Report Commissioned by the Town and country Planning Directorate: Ministry of Works and Development for the Bay of Plenty United Council, May 1986)

Tony Nightingale, Tauranga Maori Land Development Schemes, 1929-55 [Report Commissioned by the Waitangi Tribunal, November 1995]

Geoffrey Rice (ed.), *The Oxford History of New Zealand*, (Auckland, OUP, second edition 1992).

Evelyn Stokes, *Tauranga Moana: The Impact of Urban Growth*, University of Waikato Occasional Paper No. 7 (June 1980).

Haare Williams, *The Maungatapu Experience: A Visit to the Maungatapu Marae by the Auckland City Council, 1977* (Auckland, 1977).

National Archives held at Head Office Wellington.

AAMK 869/58a, maungatapu Z Blocks.
AAMK 869/59g, Mount Maunganui, Tauranga Aerodrome site.
AAMK 869/59h, Mount Maunganui, Tauranga Aerodrome site.
AAMK 869/60a, Tauranga Aerodrome Site and Port Development 1957-9.
AAMK 869/60b, Tauranga Aerodrome Site and Port Development 1959-61.
AAMK 869/829a, Kaitimako Development Scheme.

Health, series 1, 194/1/8 (13926)

MA series 1, 29/4/11
MA series 1, 30/3/130 part 2

Tauranga District Council Archives

File 16/9 (microfilm 78)

WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND CONCERNING the Tauranga claims

DIRECTION COMMISSIONING RESEARCH

1 Pursuant to clause 5A(1) of the second schedule of the Treaty of Waitangi Act 1975, the Tribunal commissions Tony Nightingale of Wellington to complete a research report for this claim covering the following matters:

(a) a supplementary report, providing any further details considered necessary as an expansion or substantiation of parts of his CFRT report.

(b) a report on consolidation schemes, land development schemes, and land title improvements including those at Matapihi, Ngapeke, Kaitimako, Mangatawa and Papamoa areas.

(c) a report on the activities of the Tauranga commissioners, including:

(i) background information on the Government policy decision to use commissioners instead of the Maori Land Court or the Compensation Court,

(ii) the qualifications and experience of the commissioners,

(iii) an analytical account of the processes by which the Commissioners made their decisions with regard to the allocation of land, the bases on which those decisions were made and the outcome of those decisions.

2 This commission commences on receipt of written confirmation of the commissionee's acceptance of the terms and conditions of the commission.

3 The commission ends on 30 November 1996 at which time one copy of the report will be filed in unbound form together with an indexed document bank and a copy of the report on disk.

Cont page 2. The report may.....

4 The report may be received as evidence and the author may be cross examined on it.

5 The Registrar is to send copies of this direction to:

Tony Nightingale
Claimants
Counsel for Claimants
Solicitor General, Crown Law Office
Director, Office of Treaty Settlements
Secretary, Crown Forestry Rental Trust
Director, Te Puni Kokiri

Dated at Wellington this 30th day of April 1996.

Chief Judge E T J Durie
Chairperson
WAITANGI TRIBUNAL

FIG 3: SUB DIVISION OF KAITIMAKO BLOCKS 1, 2, 3 INTO KAITIMAKO BLOCKS A TO L