

Wai 894 #F3

**OFFICIAL**

Amalgamation of Urewera Lands 1960-1980s

A Report for the Waitangi Tribunal

By Clementine Fraser

June 2004

**The Author**

My name is Clementine Fraser and I am a freelance researcher based in Auckland. I have a Master of Arts degree in History with first class honours from the University of Auckland, and was previously a research officer at the Waitangi Tribunal Business Unit, where I researched and wrote two reports: a block history for the Muriwhenua inquiry and an examination of the administration of the Nelson Tenth's Reserves. I also assisted Professor Alan Ward with research for a report for the Wai 145 Wellington Tenth's inquiry and acted as the facilitator for the King Country and Central Auckland districts. I have completed a data compilation report on the Urewera Consolidation Scheme and a report on Tuhoe and the Native Land Court, both commissions for the Waitangi Tribunal. I have also completed a report for the Crown Forestry Rental Trust on Wairarapa Maori Expressions of Tino Rangatiratanga.

**Table of Contents**

The Author .....	ii
Table of Contents .....	iii
List of Tables .....	v
List of Abbreviations .....	vi
Map of Urewera Amalgamations .....	vii
<b>Chapter One: Introduction .....</b>	<b>1</b>
<b>1.1: Sources Used.....</b>	<b>1</b>
<b>1.2: Outline of the Report.....</b>	<b>2</b>
<b>1.3: Limits of this Report.....</b>	<b>2</b>
<b>1.4: Issues Raised in this Report.....</b>	<b>2</b>
<b>Chapter Two: Origins of Amalgamation .....</b>	<b>5</b>
<b>2.1: Fragmentation of Urewera Lands.....</b>	<b>5</b>
<b>2.2: Maori Affairs Amendment Act 1967.....</b>	<b>7</b>
<b>2.3: Desire of Owners to Utilise Land.....</b>	<b>14</b>
2.3.1 Motivating Factors in the Push for Amalgamation .....	15
2.3.2 1971 Meeting with Minister of Maori Affairs.....	20
<b>2.4: Issues Arising .....</b>	<b>23</b>
<b>Chapter Three: Administrative Process of Amalgamation .....</b>	<b>26</b>
<b>3.1: Maori Land Court .....</b>	<b>26</b>
<b>3.2: Role of Maori Affairs Officers and Title Improvement Officers.....</b>	<b>30</b>
<b>3.3: Consultation with Owners .....</b>	<b>32</b>
<b>3.4: Establishment of Trusts .....</b>	<b>45</b>
<b>3.5: Valuations.....</b>	<b>46</b>
<b>3.6: Issues Arising .....</b>	<b>54</b>
<b>Chapter Four: Confusion over Title Status .....</b>	<b>58</b>
<b>4.1: How Confusion Arose.....</b>	<b>58</b>
4.1.1: Royal Commission of Inquiry into the Maori Land Courts: .....	59
<b>4.2: Consequences of Confusion over Titles .....</b>	<b>61</b>
<b>4.3: Resolution of Confusion .....</b>	<b>66</b>
<b>4.4: Issues Arising .....</b>	<b>68</b>
<b>Chapter Five: Protests and Appeals by Owners.....</b>	<b>70</b>
<b>5.1: Letters from Owners .....</b>	<b>70</b>
<b>5.2: Maori Land Court Rehearings .....</b>	<b>81</b>
5.2.1: Tuhoe Kaaku Rehearing.....	81
5.2.2 Tama Nikora's Land Utilisation Report for Tuhoe Kaaku.....	84
5.2.3: Tuhoe Kaaku Rehearing Resumed.....	87
<b>5.3: High Court Proceedings .....</b>	<b>92</b>
<b>5.4: Issues Arising .....</b>	<b>103</b>
<b>Chapter Six: Summary and Conclusions.....</b>	<b>105</b>

<b>6.1: End State of the Lands .....</b>	<b>105</b>
<b>6.2: Origins of the Amalgamation.....</b>	<b>106</b>
6.2.1: Who Initiated the Amalgamation Applications?.....	106
6.2.2: Role of the Crown.....	106
6.2.3: Role of the Trusts.....	107
<b>6.3: The Maori Affairs Amendment Act 1967 .....</b>	<b>108</b>
<b>6.4: Procedural Failings of the Maori Land Court .....</b>	<b>109</b>
6.4.1: Notification and Consultation with Owners.....	109
6.4.2: Valuations .....	110
6.4.3: Title Confusion .....	110
<b>6.5: Protests and Appeals .....</b>	<b>111</b>
<b><i>Appendices: .....</i></b>	<b><i>113</i></b>
<b>Appendix One: Time Line.....</b>	<b>113</b>
<b>Appendix Two: Tables showing Previous Blocks involved in the Amalgamation ....</b>	<b>115</b>
Table 2.1: Tuhoe Tuawhenua Former Blocks .....	115
Table 2.2: Tuhoe Kaaku Former Blocks .....	116
Table 2.3: Te Manawa-o-Tuhoe Former Blocks .....	116
Table 2.4: Te Pae-o-Tuhoe Former Blocks.....	118
<b>Appendix Three: Tables Showing Valuations for Amalgamated Blocks.....</b>	<b>119</b>
Table 3.1: Te Pae-o-Tuhoe Valuations 1969 .....	119
Table 3.2: Te Pae-o-Tuhoe Valuations 1973 .....	120
Table 3.3: Te Pae-o-Tuhoe Valuations Comparison 1969 and 1973. ....	121
Table 3.4: Tuhoe Kaaku Valuations 1973.....	122
Table 3.5: Tuhoe Tuawhenua Valuations 1973 .....	123
Table 3.6: Te Manawa-o-Tuhoe Valuations 1969 .....	124
Table 3.7: Te Manawa-o-Tuhoe Valuations 1973 .....	125
Table 3.8: Te Manawa-o-Tuhoe Valuations Comparison 1969 and 1973 .....	126
<b><i>Bibliography:.....</i></b>	<b><i>128</i></b>
1: Primary Sources.....	128
2: Secondary Sources.....	128

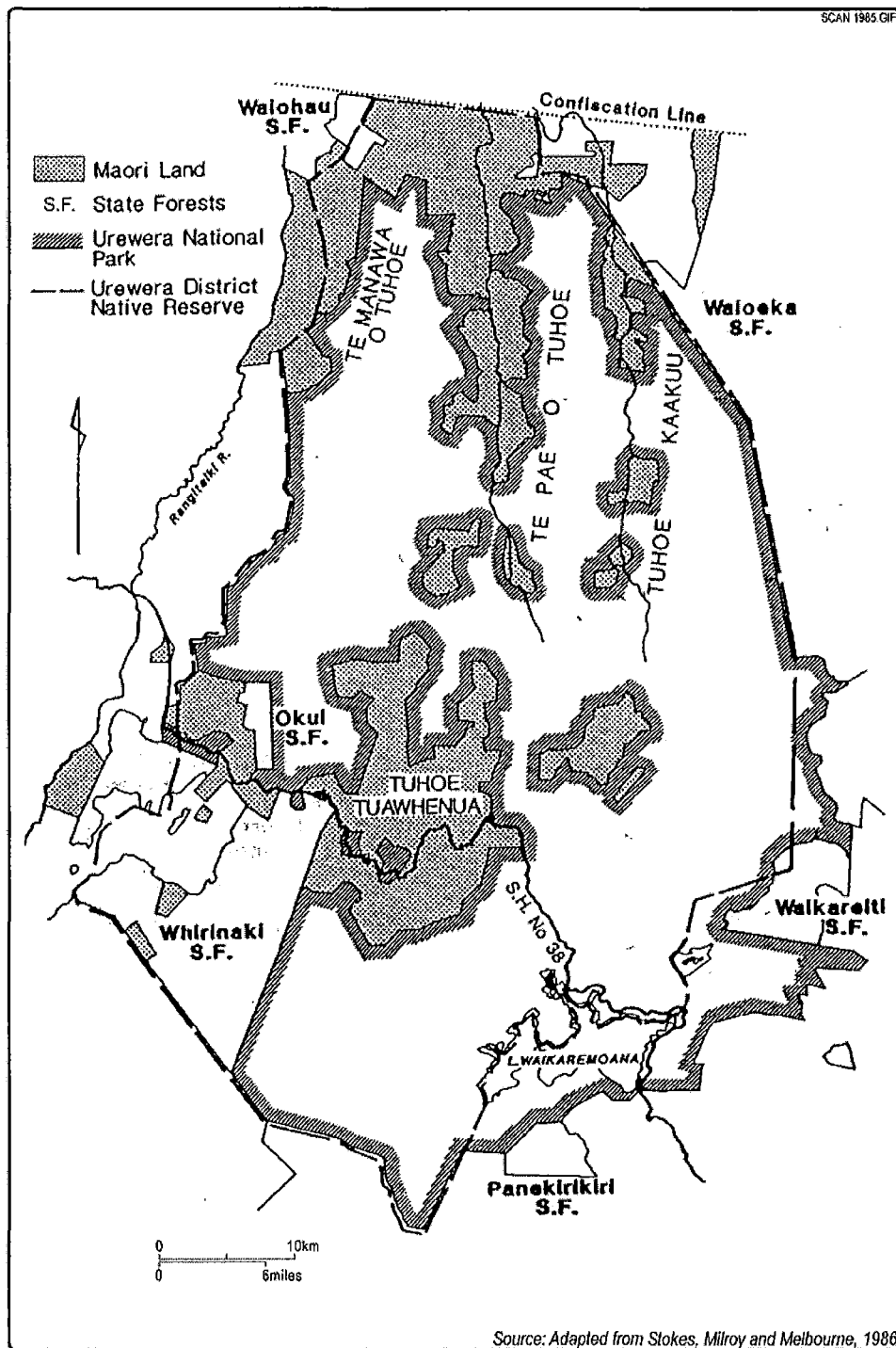
**List of Tables**

Chart 1: Te Pae-o-Tuhoe Valuation Comparison	p. 49
Chart 2: Te Manawa-o-Tuhoe Valuation Comparison	p. 50
Table 1: Orders placed on Tuhoe Tuawhenua Lands 1987	p. 100

**List of Abbreviations**

AJHR	Appendices to the Journals of the House of Representatives
ANZ	Archives New Zealand
C/O	Consolidation Order
MB	Minute Book
MLC	Maori Land Court
p.	page
pp.	pages
P/O	Partition Order
ROD	Record of Documents
TWMTB	Tuhoe Waikaremoana Maori Trust Board
WMLC	Waiariki Maori Land Court
Wai	Refers to the number assigned to a claim by the Waitangi Tribunal and used to identify documents relating to each claim.
v.	volume

### Map of Urewera Amalgamations



Map 1: Urewera Amalgamations

## **Chapter One: Introduction**

This report was commissioned to examine the amalgamation of Urewera land blocks in the 1960s and 1970s into four titles: Tuhoe Tuawhenua, Tuhoe Kaaku, Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe. At the time that the amalgamations of these lands was initiated, Urewera Maori Land had been severely fragmented by subdivision in the Urewera Consolidation Scheme, and lands had been taken by the Crown from the Urewera District Native Reserve. The many landowners, who did not wish to sell their interests, required a solution to a situation where they had difficulty utilising and retaining their lands. Amalgamation of Urewera lands needs to be viewed in the light of Tuhoe's anxiety to preserve their remaining tribal estate.

Specifically, the commission requires the author to look at: the role of the Maori Affairs Department in establishing the scheme, especially the role of the Title Improvement Officer; the administrative process of amalgamation; and any confusions that arose over the titles and the consequences of that. The extent of consultation with owners and any protests or appeals made by owners are also covered by the commission, as is the decision and process wherein trusts were created to administer the amalgamated lands.

### ***1.1: Sources Used***

This report is based on the documentary evidence available on public record. Primarily I have used the Waiariki Maori Land Court current files in which all correspondence between the officials of the Court and owners, other officials, and the Tuhoe Waikaremoana Maori Trust Board regarding the Urewera amalgamated blocks are kept. I have also relied on the Minute Books of the Court. These files are rich in content. Although they may not show the minutes of all owners' meetings at which decisions were reached, they show how involved the Court staff were with setting up those hui and with resolving any issues that were brought up at these meetings.

This writing of this report has benefited from Tribunal staff communications with Tama Nikora, current secretary of the Tuhoe Waikaremoana Maori Trust Board, but this report and commission is focused on the actions and intentions of the Crown and the Court, not with the actions of the Trust Board or the owners except for how they



were affected by or attempted to engage with Crown actions. The administration of these lands by various trusts is not part of this commission.

### ***1.2: Outline of the Report***

The report begins by discussing the origins of the decision to amalgamate Tuhoe lands, who initiated it, and how the proposal was received by owners and by the Crown. Following this is a brief discussion of the Maori Affairs Amendment Act 1967, and the provisions it made for amalgamation of lands and vesting in trustees. The question of whether or not the 1967 Act provided safeguards for the administration and alienation of Maori Land, as well as the powers provided to the Maori Land Court, is also examined in this section.

Chapter Three examines the administrative process of the amalgamations and the role of the Maori Affairs department in both establishing and running the amalgamation scheme. Also looked at in this section is the extent of consultation with owners and the process of valuations. The report then examines the confusions surrounding the amalgamation titles, how this confusion arose, what was done to resolve it, whether it led to appeals from owners, and the consequences of this confusion.

Chapter Five discusses protests and appeals by owners. This covers different methods of expressing concerns or protests, which range from letters written by owners to government officials, to Maori Land Court rehearings and High Court proceedings.

The final chapter brings the preceding information together and attempts to make some comparisons and/or highlight similar patterns of experience

### ***1.3: Limits of this Report***

This report will examine the extent to which the Maori Land Court engaged with owners and sought to notify everyone or relied on other agencies to do it for them. It does not focus on whether the Tuhoe Waikaremoana Maori Trust Board managed to conduct this notification which was strictly speaking the role of the Court.

### ***1.4: Issues Raised in this Report***

There are significant issues that arise from a study of these documentary sources. Primarily it is notable how high a level of confusion there was about the status of the titles. Many owners seemed to be unaware of what was happening to their lands, and

continued to seek permission to partition or lease the lands. One of the causes of this lack of awareness on the part of owners was the confusion rife among the Court staff, who then passed on their misunderstandings regarding the status of the titles to the owners. Another reason that owners often seemed not to know what had happened to their land is the fact that Court staff and Crown officials apparently dealt with Trust Board members, rather than discussing matters with owners. Maori Affairs and Maori Land Court staff were happy to deal with Tuhoe Waikaremoana Maori Trust Board officers and assistants rather than sounding out all owners themselves. Given the level of involvement of some of these government officials, a question is raised about how appropriate it was to have departmental staff closely associated with the Trust Board working on the amalgamation. However, it seems clear that departmental staff such as John Rangihau and Piki McGarvey were involved in the amalgamations as members of Tuhoe and on behalf of Tuhoe, not on behalf of the Department of Maori Affairs. Meetings with owners were often only with a small proportion of the owners. The rural nature of Urewera did not help matters, as effective notification of meetings or Court sittings was not as easy to ensure as in a town environment, and neither was attendance as easy to command.

Maori Land Court staff allowed a state of confusion to arise about the status of the titles through a lack of attention to process, whereby it became accepted truth that the amalgamation orders had not been finalised when in fact they had. It is profoundly unlikely there were any negative intentions, but the result was not good. This confusion over the titles remained in place for many years.

There is a difficulty in establishing whether or not Maori Land Court staff can be regarded as 'agents of the Crown' for the purposes of Waitangi Tribunal Inquiry. They appear in Public Service Lists as employees of the Maori Affairs department but this does not necessarily render them 'agents'. The Maori Affairs department serviced the Maori Land Court until 1989 in the same way that the Justice Department serviced the Maori Land Court until 1995. The confusion between the Maori Land Court and Maori Affairs department is seen in the dual role of the Maori Land Court Registrars who also function as Maori Affairs District officers.

The amalgamation of these lands and the vesting of them in trustees may have been good for land utilisation, and this report does not extend to examining the virtues or otherwise of amalgamation, but the process of that amalgamation was not always

smooth. The need to balance general tribal interest against an individual's rights to do with their land or interests what they will led inevitably to tensions and to individuals expressing concern that their right to administer their own land or deal with their own shares was being taken from them. In a block with multiple owners, individual interests will always be subsumed by those of the majority. This report acknowledges this fact but examines whether there was adequate notice given to all owners in lands regarding the intended amalgamations and whether concerns expressed to the Maori Land Court were dealt with adequately.

Valuations were out of date and improvements which raised the value were not taken into account. Also the land was valued in some ways only as it related to forestry.

Amongst the ineptitude, the Court officials did seek to protect Maori land. The Court was operating on the stated wishes of some of the owners (via representatives) rather than making decisions as to what it thought they should do. Attempts were made by some Crown officials to rectify the matters of out of date valuations, title confusions, and poor notification of owners. Lands were generally excluded from amalgamation if the owner strongly opposed it. Unfortunately most of these oppositions came after the fact of amalgamation, adding to the general confusion and requiring further applications by the owners. The Court faced other difficulties such as a lack of clear maps of the area and few staff skilled in Title Improvement matters.

## Chapter Two: Origins of Amalgamation

This chapter gives a brief picture of the background to the position of the lands involved in the amalgamation, before discussing the Maori Affairs Amendment Act 1967, which enabled amalgamation to take place, and the desire and initiative of Maori in the Urewera to make their lands more productive through the process of amalgamation.

### *2.1: Fragmentation of Urewera Lands*

The amalgamation of these lands was the culmination of a century of fragmentation of Urewera lands. Early sales, alienations, and the loss of lands through surveys, all led to a diminished and fragmented rohe. This was further aggravated by the lack of roads in the Urewera. The consolidation scheme of the 1920s was intended to rectify the problems resulting from this fragmentation by grouping the interests in land held by owners into several compact areas, rather than allowing dispersed rights over dispersed locations. It was hoped that this would enable more effective utilisation of the land; and also provided for Crown interests to be consolidated and cut out. Unfortunately, the 1921 Urewera Consolidation Scheme and subsequent sales had left many blocks in the Urewera with large numbers of owners, and by the 1960s, the lands in the Urewera remaining in Maori hands were in uneconomic blocks and in need of development. The state and location of the lands did not encourage economic success. With increasing urbanisation much of the land was lying untended, and the fragmented nature of ownership did not facilitate individual efforts to improve land. It was clear that some form of general governance, such as a trust board or committee of owners, was needed to administer the interests of absentee owners and provide guidance for land improvements.

The 1980 Royal Commission into the Maori Land Courts noted that the 'process of fragmentation has inevitably brought about serious consequences for the administrative management and economic utilisation of lands for the benefit of the owners'.<sup>1</sup> One of these consequences was the temptation to sell 'because

---

<sup>1</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 29.

fragmentation has reduced their shares in the land to such an uneconomic standard that no real use can be made of them by the owners'.<sup>2</sup>

The 1960s also witnessed a 'decline in local employment and subsequent increasing urbanisation and absentee ownership [which increased] pressure for rate payments'. Bassett and Kay argue that these factors 'increased the likelihood that Tuhoe land owners might have to alienate their land'.<sup>3</sup> With land still being held in whanau groups and consisting largely of small blocks, Bassett and Kay argue, sale would be easier and more tempting.<sup>4</sup>

The 1980 Royal Commission found that:

From the 1953 legislation onwards there have been attempts to find solutions, acceptable to the Maori people, to the problems brought about by the present land tenure and succession arrangements. Some schemes have been introduced and then found to be unacceptable. Some have caused only a temporary halt to an ever-growing problem.<sup>5</sup>

The Ruatahuna Farm Scheme was one such attempt to solve these issues. At a meeting in Ruatahuna on 25 November 1961, J.H.W Barber, the Maori Affairs District Officer for Rotorua, met with 'owners of farming lands' to discuss the Department's proposal for the development of Ruatahuna.<sup>6</sup> The proposal followed the development schemes in other areas, especially that of Ngati Manawa at Murupara. And involved 'the owners of the lands [agreeing] to the Court cancelling their separate titles and granting a single title for the whole of the lands under development'.<sup>7</sup> The owners present at the meeting (an estimated 300) 'agreed unanimously to the amalgamation of the titles to the farming lands and to the development of those lands by the Department'.<sup>8</sup>

The Tuawhenua Research Team, in their report on Ruatahuna, argue that the people of Ruatahuna saw amalgamation of the lands for the development scheme in a different way than did the Crown. They state:

---

<sup>2</sup> Smith, Norman, *Maori Land Law*, 1962, cited in 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 29.

<sup>3</sup> Bassett, H. and Kay, R., 'Ruatahuna: Land Ownership and Administration c.1896-1990', Report for the Waitangi Tribunal, June 2001 (Wai 894 record of inquiry doc A20), p. 271.

<sup>4</sup> Bassett and Kay, p. 271.

<sup>5</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 31.

<sup>6</sup> Minutes of a Meeting at Ruatahuna, 25 November 1961, included in letter from B.F. Munro of Maori Affairs to P. McGarvey, 2 March 1962, ref MA 2171, provided by Tama Nikora.

<sup>7</sup> Minutes of a Meeting at Ruatahuna.

<sup>8</sup> Minutes of a Meeting at Ruatahuna.

The people of Ruatahuna believed that amalgamation meant a simple joining together for a particular purpose – a joining that, unlike an amalgamation could be dismantled when the time came to return the lands for settlement by farmers of Ruatahuna.<sup>9</sup>

They further argue that ‘the implications of this change in title – that hapu and whanau ownership of specific areas in Ruatahuna would be dissolved – was never properly explained to the people’.<sup>10</sup>

## ***2.2: Maori Affairs Amendment Act 1967***

The Maori Affairs Amendment Act 1967 empowered the Maori Land Court to facilitate the amalgamation of Tuhoe land into four blocks, Tuhoe Tuawhenua, Tuhoe Kaaku, Te Pae-o-Tuhoe, and Te Manawa-o-Tuhoe. Following the Hunn report in 1961 and the 1965 Waetford and Prichard report, the Government instituted a policy designed to reduce the number of individuals in each block by amalgamating them into one or more large blocks. Heather Bassett and Richard Kay argue that this:

concern to turn “uneconomic” blocks into income generating units was not motivated purely by the desire to provide income for Maori. It was also seen as being in the interest of the country that “idle” land should be brought into production.<sup>11</sup>

It was also likely, however, a very real concern for owners facing harsh economic realities that their ‘idle’ or unproductive land should be improved and made productive.

One of the precipitating factors in the establishment of the Maori Affairs Amendment Act 1967 was the 1964 Commission of Inquiry into Maori land and the Maori Land Court. Carried out by Ivor Prichard (a former Chief Judge) and Hemi Tono Waetford (a Maori Affairs District Officer and Registrar of the Tai Tokerau Maori Land Court), the commission reported that:

Fragmentation and unsatisfactory partitions are evils which hinder or prevent absolutely the proper use of Maori lands. Fragmentation will become progressively worse unless urgent remedial action is undertaken.<sup>12</sup>

---

<sup>9</sup> Tuawhenua Research Team, ‘Ruatahuna, Te Manawa o Te Ika. Part Two: A History of the Mana of Ruatahuna from the Urewera District Native reserve Act 1896 to the 1980s’, April 2004, Wai 894 ROD D2, p. 512

<sup>10</sup> Ibid., p. 512.

<sup>11</sup> Bassett and Kay, p. 272.

<sup>12</sup> Prichard, Ivor and Hemi Tono Waetford, ‘Report to Hon JR Hanan, Minister of Maori Affairs, of Committee of Inquiry into the Laws Affecting Maori Land and the Jurisdiction and Powers of the Maori Land Court’, 15 December 1965, p. 6, cited in Bassett and Kay, p. 272.

Bassett and Kay describe the remedial action recommended by the Commission as 'encouraging Maori to divest themselves of small or 'uneconomic' shares in Maori land, so that those who moved away from traditional areas would have finance to re-establish themselves'. To facilitate this the Commission recommended that the Maori Trustee be given the power to acquire all shares worth less than £100, whether those who held those shares wished to divest themselves of them or not. With a reduced number of owners the land blocks could be 'grouped together to facilitate programmes to develop the land or facilitate income generating leases'.<sup>13</sup>

Bassett and Kay argue that:

The aim of this amended legislation was to create a less complicated system which would allow Maori land to be leased or sold more easily. There was no requirement under section 438 for the application for a trust to be made by the owners, and the court could make a vesting order on its 'own motion'. In practical terms this meant that the court was empowered to take an active role in implementing Crown policy and encouraging trust formation and subsequent land alienation (particularly through leasing).<sup>14</sup>

The multiple ownership of the land, as suggested out by the Commission, lent itself more easily to generating income through the leasing of land, than it did to generating income through individual efforts at land improvement. For the latter to occur, a form of centralised land administration for these multiple owners would be needed.

The Prichard-Waetford Report recommended that the Maori Land Court's role in Maori land was

increasingly [as] an examiner of titles that are uneconomic in size and shared by far too many owners. The duty of the Court now is to find a solution which is both desirable and practical both as to size and boundaries of blocks and as to ownership.<sup>15</sup>

The Amendment Act 1967 reduced the jurisdiction of the Maori Land Court 'and its future use was left uncertain'.<sup>16</sup>

Section 15 of the Amendment Act laid out the purpose of the part of the Act relating to land use. It stated that the 'main purpose of this part of this Act is to promote the effective and profitable use and the efficient administration of Maori land in the

---

<sup>13</sup> Bassett and Kay, p. 272.

<sup>14</sup> Bassett and Kay, p. 275.

<sup>15</sup> 'Report of the Committee of Inquiry into Laws Affecting Maori Land and the Powers of the Maori Land Court', 1965, p. 112, cited in 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 48.

<sup>16</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 48.

interest of the owners.’<sup>17</sup> The parts of the Amended Act that have most bearing on the amalgamation were those that created Title Improvement Officers whose tasks involved the investigation of the usability, suitability, and ownership of Maori land, and also those sections which enabled the Maori Land Court to amalgamate titles based on information from these improvement officers.

The powers granted to Title Improvement Officers included investigative duties to discover:

- (a) The situation, area, dimensions, and topography of the land, and the practical and legal access thereto:
- (b) The extent to which the boundaries are or should be surveyed:
- (c) The occupation and current use of the land:
- (d) The use to which the land is best fitted:
- (e) The number of owners of the land and the extent of their several interests:
- (f) The extent to which rates levied on the land are paid:
- (g) The existence of any charge or encumbrance on the land.<sup>18</sup>

After this investigation, the Title Improvement Officer had the responsibility and powers to determine ‘necessary action’. Following ‘such consultation as is conveniently practicable with the owners of the land and other interested persons or bodies’, the Title Improvement Officer had the powers to determine:

whether or not it is necessary or desirable to take action to improve the fitness of the land for effective and profitable use, or to permit the more efficient administration of the land.<sup>19</sup>

The actions which could be undertaken included

- (a) The exercise by the Court of its jurisdiction to partition the land, by itself or in conjunction with any other land:
- (b) The amalgamation of the title to the land with the title to any other land:
- (c) The cancellation of existing partition orders:
- (d) The laying out or cancellation of roadways:
- (e) The constitution of the owners as a Maori incorporation:
- (f) The vesting of the land in trustees upon trust to alienate:
- (g) The exercise of any other jurisdiction possessed by the Court:

---

<sup>17</sup> Maori Affairs Amendment Act 1967, Part Two section 15.

<sup>18</sup> Maori Affairs Amendment Act 1967, section 16, subsection 2.

<sup>19</sup> Maori Affairs Amendment Act 1967, section 17, subsection 1.



- (h) The survey of the boundaries of the land:
- (i) The acquisition from the Conversion Fund of uneconomic or other interests in the land:
- (j) The alienation of the land by the owners pursuant to Part 19 or Part 23 of the principal Act.<sup>20</sup>

If action was deemed necessary the Title Improvement Officer was to report this decision to the Registrar of the Maori Land Court. The Registrar could then 'lodge applications for the exercise by the Court in respect of the land of any of its jurisdiction which the Improvement Officer has determined to be necessary or desirable'.<sup>21</sup>

The officers were restricted only by a requirement to consult with the owners where convenient and practical. The Maori Land Court Registrar was to take the recommendations of the Title Improvement Officer and submit an application to the Court for the purpose recommended by the Title Improvement Officer. The Court was to bear in mind the main purpose of this part of the Act, and

if the Court considers that the order sought would not be contrary to the interests of the owners and that adequate consultation under subsection (1) of section 17 of this Act has taken place with the owners or their representatives, [it may] make the order notwithstanding any objection thereto by any owner or owners.<sup>22</sup>

The consultation under section 17 referred to was that undertaken by the Title Improvement Officer, and needed only to have been 'such consultation as is *conveniently practicable* with the owners of the land and other interested persons or bodies'.<sup>23</sup> There were no other guidelines or requirements as to what constituted appropriate consultation. Under this section, if it was conveniently practicable to consult with only a fraction of the owners of a land block, meaning that the views of the majority were not obtained, this was considered adequate for the land to be submitted for amalgamation and vesting in trustees, or any other action under the act which the Title Improvement Officer deemed appropriate. It is significant that the Court could make an order 'notwithstanding' protests or objections from owners if it believed that the Title Improvement Officer had undertaken appropriate consultation.

---

<sup>20</sup> Maori Affairs Amendment Act 1967, section 17, subsection 2.

<sup>21</sup> Maori Affairs Amendment Act 1967, section 18.

<sup>22</sup> Maori Affairs Amendment Act 1967, Part Two section 19.

<sup>23</sup> Maori Affairs Amendment Act 1967, Part Two section 17 subsection 1. Emphasis added.

This highlights the extremely important role that the Title Improvement Officer could play in the development and alterations to the status of Maori land.

No order was to be made if the Court believed that an objecting owner would suffer an immediate diminishment in the value of his interests in the land or would 'suffer substantial hardship' from being evicted from the land, of which he or she was in occupation.<sup>24</sup> Bassett and Kay argue that this paternalistic attitude which sought to decide what was in the best interests of the owners without true consultation or regard to objections, meant that 'greater emphasis was given to general considerations regarding profitable land use and effective land management than the wishes of the owners'.<sup>25</sup> This goes to the heart of the conflict between general economic and tribal interests and the individual rights or desires affected (such as to keep hold of pastoral lands).

Section 435 of the Maori Affairs Act 1953, which was replaced by section 141 of the Maori Affairs Amendment Act 1967, allowed for the amalgamation of Maori land. The types of land that were included were not restricted to Maori freehold land, but also included general land where the majority of owners were Maori, and Crown land that was subject to Part 24 of the Act.<sup>26</sup> Part 24 allowed for the Board of Maori Affairs, 'with the consent of the Minister of Lands' to declare Crown land subject to the Maori Affairs Act.<sup>27</sup> Section 435 provided for the Court, where 'satisfied' that any land to which the section applied and 'which comprises two or more areas held under separate titles, can be more conveniently worked or dealt with as if it were held in common ownership under one title', could 'cancel the several titles under which the land is held and make an order (hereinafter referred to as an amalgamation order) substituting therefor [sic] one title for the whole of the land'.<sup>28</sup> The Crown land that could be included was only able to be amalgamated with the permission of the Maori Land Board.<sup>29</sup> It was required that any amalgamation order

shall set forth the relative interests of the several owners of the land which...shall be calculated by reference to the relative values of the interests to which they were entitled under the cancelled titles.<sup>30</sup>

---

<sup>24</sup> Maori Affairs Amendment Act 1967 Part Two section 19.

<sup>25</sup> Bassett and Kay, p. 274.

<sup>26</sup> Maori Affairs Act 1953, section 435, subsection 1.

<sup>27</sup> Maori Affairs Act 1953, Part 24, section 331.

<sup>28</sup> Maori Affairs Act 1953, section 435.

<sup>29</sup> Maori Affairs Act 1953, section 435.

<sup>30</sup> Maori Affairs Act 1953, section 435 subsection 4.

When land included in the amalgamation application was subject to an encumbrance such as a lease or mortgage, the Court was required to obtain the consent of the lessee or mortgagee, 'unless it is satisfied that the rights and interest of that person would not be detrimentally affected by the making of the order'.<sup>31</sup> Where the land was vested in a trustee before it came up for amalgamation, the amalgamation order only affected 'the equitable estate of the beneficial owners'.<sup>32</sup>

Another important change made by the amended Act affected the rules governing a trust or incorporation of owners by removing the stipulation that any alienations carried out by trustees had to be confirmed by the Maori Land Court. Also removed was the right of the owners to object to the land being vested in trustees. Instead they could 'express their opinion as to the person or persons to be appointed a trustee or trustees'.<sup>33</sup> The owners were given no option at all to express a formal opinion about the formation of a trust itself, and further, the right of appeal was revoked in regards to vesting orders.<sup>34</sup> As Bassett and Kay note, regardless of any expression of discontent with those appointed as trustees of their lands, 'the court was not bound to follow the opinion of the owners'.<sup>35</sup> They further point out that the legislation did not require that the application for a trust was to be made by the owners of the lands concerned. They argue that since the Court itself could apply for a vesting order in a trust:

in practical terms this meant that the court was empowered to take an active role in implementing Crown policy and encouraging trust formation and subsequent land alienation (particularly through leasing).<sup>36</sup>

It is interesting to note here that according to I.W. Apperley, who was both Maori Affairs District Officer and Maori Land Court Registrar in Hamilton in 1971, and in regard to trusts formed for the administration of reserves:

The control of the reservations is vested in trustees appointed by the Court but in all cases (in this District at least) these trustees are first elected by the beneficial owners of the land. This has been the practice for many years and I do not know of a single departure from it.

I have discussed this matter briefly with Mr John Rangihau and he has expressed the opinion that once his people appreciate that this is the

---

<sup>31</sup> Maori Affairs Act 1953, section 435 subsection 6.

<sup>32</sup> Maori Affairs Act 1953, section 435 subsection 8.

<sup>33</sup> Maori Affairs Amendment Act 1967 section 142, subsection 1.

<sup>34</sup> See Bassett and Kay, p. 274.

<sup>35</sup> Bassett and Kay, p. 275.

<sup>36</sup> Bassett and Kay, p. 275.

situation and that the beneficial owners alone may elect the trustees, they will probably accept the situation.<sup>37</sup>

Apperley further explained this process to the Minister of Maori Affairs by noting that:

both section 439 of the Act and the Maori Reservations Regulations are silent about the election of trustees but the practice in this district is for the beneficial owners of the land to elect the trustees, or replacement trustees, and we do not know of any case where this practice has not been followed.<sup>38</sup>

It is worth noting the fact that a system had developed in the Waiariki Maori Land Court at least, whereby deficiencies in the legislation were compensated for and worked around, and that in this case at least, it appears that the Court was working the deficiencies in the favour of the beneficial owners.

The process of valuation for the purposes of amalgamation was also set out in section 435 of the 1953 Act (which became section 141 of the 1967 Act):

For the purposes of calculating the relative values aforesaid, the Court may, if it thinks it equitable so to do, adopt values, whether capital or unimproved values, other than those appearing in the district valuation roll for the time being in force under the Valuation of Land Act 1951, and, in the case where the land comprised in the several separate titles is subject to the provisions of Part 24 of this Act, the Court shall, for the purposes aforesaid, adopt such values as may be ascribed by the Maori Land Board to the land comprised in the several separate titles.<sup>39</sup>

The Court could also adjust the relative interests of the owners in a manner which did not reflect the previous relative values to which they were entitled:

Instead of calculating the relative interests of the owners by reference to the relative values of the interests to which they were entitled under the cancelled titles, the Court may calculate the relative interests in accordance with any understanding or arrangement between the several groups of owners of the areas comprised in the cancelled titles as to a basis of amalgamation ... if it is satisfied that the basis is, in all the circumstances, fair and equitable.<sup>40</sup>

The powers of equitable owners of vested land to alienate that land were also redefined. Such an owner could dispose of an interest in the land in the following ways:

---

<sup>37</sup> I.W. Apperley, District Officer, to The Secretary Tuhoe Trust Board, 7 May 1971, MA W2150 1/1/71 (Box 1) Minister's Visit to Ruatahuna.

<sup>38</sup> I.W. Apperley, District Officer, to Minister of Maori Affairs, 7 May 1971, MA W2150 1/1/71 (Box 1) Minister's Visit to Ruatahuna.

(a) He may dispose of the interest by will:

(b) He may sell the interest to the Maori Trustee for the general purposes of the Reserved and Vested Land Purchase Fund established by section 41A of the Maori Trustee Act 1953 (as inserted by section 128 of the Maori Affairs Amendment Act 1967):

.....

(e) He may assign the interest by way of security in accordance with the provisions of section 4B of this Act (as inserted by section 151 of the Maori Affairs Amendment Act 1967):

(f) He may exercise in respect of the interest a vote on any proposal submitted to a meeting of the assembled owners of the land as provided by section 61 of this Act.

(2) For the purposes of subsection (1) of this section the term "equitable owner" shall, in relation to any beneficial freehold interest in reserved land, mean the person who is recorded as the owner thereof in the records of the Maori Land Court and of the Maori Trustee and shall include an administrator, assignee, or trustee who is so recorded.

(3) Except as provided in this section, the equitable owner of a beneficial freehold interest in reserved land shall have no power to deal with his interest.<sup>41</sup>

Few safeguards were written into the Act. There were many points where the Court had the final say over whether a particular action would be the best use of the land or not, regardless of the actual desire of the owners.

### ***2.3: Desire of Owners to Utilise Land***

In the late 1960s, the Tuhoe Waikaremoana Maori Trust Board entered into discussions with the Government to allow the Government to 'either buy the amalgamated blocks, or exchange them (by either sale or lease) for lands elsewhere', in an effort to provide income for Tuhoe people.<sup>42</sup> Bassett and Kay argue that 'one of the driving forces behind the proposed amalgamations was continued Crown efforts to include the Tuhoe blocks in the Urewera National Park'.<sup>43</sup> This desire on the part of the Crown is what gave the Tuhoe Trust Board the ability to negotiate exchanges of lands. Bassett and Kay note that the Tuhoe leadership, represented by John Rangihau and the Tuhoe Waikaremoana Maori Trust Board, wanted to find a new way of

---

<sup>39</sup> Maori Affairs Act 1953 section 435 subsection 4.

<sup>40</sup> Maori Affairs Act 1953 section 435 subsection 5.

<sup>41</sup> Maori Affairs Amendment Act 1967, Part Two, section 150 and 153. Also see section 4A of the Maori Vested Lands Administration Act 1954, and section 10 of the Maori Reserved Land Act 1955.

<sup>42</sup> Bassett and Kay, p. 270.

<sup>43</sup> Bassett and Kay, p. 270.

administering Tuhoe land to prevent further land alienation. They wanted to protect 'the rights of the owners while trying to provide for the social and economic well being of all the owners (no matter where they were living).'<sup>44</sup> But as Bassett and Kay point out in their conclusion, the history of the amalgamations reveals

A fundamental tension regarding Tuhoe land ownership and administration. On the one hand, there is a desire to ensure that all owners retain a personal identification with the land they see as belonging to their whanau/hapu and feel represented in decisions made regarding their land. On the other hand, financial and legal practicalities combined with widely dispersed owners, limited economic potential for generating a financial return, and a small resident population have to be taken into account.<sup>45</sup>

John Rangihau was not only an eminent Tuhoe leader, he also worked for the Department of Maori Affairs in Rotorua as the district Maori Welfare Officer. According to the *Dictionary of New Zealand Biography*:

In this position he was involved with many matters concerning Tuhoe, including the settlement with the government of issues concerning Lake Waikaremoana, the non-completion of the road from Ruatoki to Ruatahuna, and progress of tasks undertaken by the Tuhoe Maori Trust Board. He became Tuhoe's main spokesman...and their acting trustee.<sup>46</sup>

Rangihau was not the only Tuhoe leader to be involved in the drive for amalgamation of tribal lands while also working within the governmental bureaucracy. Piki McGarvey, who signed several of the applications for amalgamation, was employed by the Maori Affairs Department in the Development Section.<sup>47</sup> It seems clear that although they were thus in a position of authority and trust both within their iwi and in the public service, their roles in the amalgamation were as members of Tuhoe and not government servants.

### **2.3.1 Motivating Factors in the Push for Amalgamation**

As well as the general desire to make the land more productive and the Tuhoe people more prosperous, there were specific factors which added impetus to the applications for amalgamation. In an introduction to the Whakatane Minute Book set aside for amalgamation matters it is noted that:

---

<sup>44</sup> Bassett and Kay, p. 271.

<sup>45</sup> Bassett and Kay, p. 354.

<sup>46</sup> Rangihau, Roka. 'Rangihau, John Te Ranigawaniwaniwa 1919 – 1987', *Dictionary of New Zealand Biography*, updated 16 December 2003 URL: <http://www.dnzb.govt.nz/>

<sup>47</sup> Appendix to Memorandum of Retired Chief Judge K. Gillanders Scott, WMLC Current File, 45-198 v.1.

Since the Ruatahuna Amalgamation and re-partition was completed in 1963, which brought into being the present Ruatahuna Farm block, and since timbers that could be extracted have been taken from the majority of Urewera lands, the Tuhoe people have been exercising in their minds ways and means of utilising the remainder of their lands which for some time they and the Crown have considered for the most part as suitable only for inclusion in the Urewera National Park.

In point of fact the Crown in April of this year has submitted for consideration proposals to incorporate some of the Maori lands in the Urewera National Park and in exchange to provide the Maori owners with Crown land that could be suitably worked in with other Maori owned blocks proposed for afforestation. However, it is generally agreed that the exchange negotiations should be deferred until the groups of titles have been amalgamated into single titles and in terms of the trust to be consisted the Tuhoe Waikaremoana Trust Board would act for the owners in the exchange proceedings.

The motivating forces behind the present proposals for these lands have been Mr John Rangihau, Mr Charlie Nikora and members of the Tuhoe Waikaremoana Maori Trust Board and peculiar to Tuhoe, the people have always inclined to the view that the Board would better manage the future of Tuhoe lands. To this end after the Minister of Maori Affairs had met the Tuhoe people at Ruatahuna in April 1971 and they had expressed their wish for the Board to control their lands. Legislation was passed in December 1971 to allow Maori Trust Boards to accept trusts – vide Section 8 of the Maori Purposes Act 1971 as an amendment to the Maori Trust Boards Act 1955. The Board has expressed its consent to accept any trust which the Court may see fit to make with regard to all the lands which will be set out in full later in these minutes.<sup>48</sup>

Notice was issued under section 34 of the Soil Conservation and Rivers Control Amendment Act 1959 that ‘the Council had prohibited the cutting or removal of trees from Urewera lands, otherwise than in accordance with consents issued by the Minister of Forests’.<sup>49</sup> In June 1969, Paki McGarvey, Rei Wiringi, and Piki McGarvey, son of Paki, applied for an order vesting the lands that would become Te Pae-o-Tuhoe in themselves as Trustees under section 438 of the Maori Affairs Act 1953. The powers requested included the ability to facilitate a sale and manage the funds arising from such sale.<sup>50</sup> The 34 blocks involved in the application for Te Pae-o-Tuhoe were surrounded by the Urewera National Park and were ‘subject to the notice under Section 34 of the Soil Conservation and Rivers Control Amendment Act

---

<sup>48</sup> WMLC, Whakatane MB 58, p. 2

<sup>49</sup> Note on Timber Cutting Grants: Urewera Lands, in Elsdon Craig Briefing Papers for 1971 Ruatahuna Hui,

<sup>50</sup> Application for Constitution of a Trust, 16 June 1969, WMLC Current File 45-199 Te Pae o Tuhoe.

1959 and no timber may be cut without the consent of the Soil Conservation and Rivers Control Council'.<sup>51</sup> The application letter stated that:

It appears from the Court records that these blocks [totalling 22,813 acres] have produced nothing since they were created by Orders under the Urewera Lands Act 1921-22. The obvious future for the blocks would be for the owners to negotiate the sale of the timber to the Crown and the sale of the land to the Urewera National Park.<sup>52</sup>

The letter explained that the owners wished to negotiate a sale with payment over several years, thus requiring the trust remain in existence for a long period of time. Vesting the land in trustees would 'enable the land to be dealt with'.<sup>53</sup>

The application came before Judge Kenneth Gillanders Scott of the Maori Land Court on 8 July 1969. Gillanders Scott was appointed a Maori Land Court judge in 1961, and Chief Judge of the Maori Land Court in 1974.<sup>54</sup> The Minutes for July 1969 note that:

There is some millable timber in the literal sense, but would milling be economic or sensible in the face of erosion possibilities, the difficulties of access, the lack of finance – let alone the general overall unattractiveness of the blocks for pastoral purposes.

Might not the long sighted view be the inclusion of all of these lands now in the Uruwera [sic] National Park: purchase of cash now (with due allowance for timber) or in the alternative under agreement for sale and purchase over a period of say 10 years, with equal annual payments spread over the 10 years – with interest at a reasonable rate, but abating accordingly.

The above has not been discussed with counsel for the applicant, but it does seem to the Court that much time trouble and expense would be saved (if there is any room for discussion of the above thought) if the Department of Maori & Island Affairs, the Lands and Survey Dept., along with Mr Ross Russell (Counsel for the applicants) could have an informal discussion as to the future of these lands at an early date.<sup>55</sup>

The Court's recommendations here were in the nature of a suggestion for the consideration of owners. The Court was likely aware of the Crown's attempts to

---

<sup>51</sup> Letter from Urquhart, Roe and Partners, to The MLC Registrar, 13 June 1969, WMLC Current File 45-199 Te Pae o Tuhoe.

<sup>52</sup> Letter from Urquhart, Roe and Partners, to The MLC Registrar, 13 June 1969, WMLC Current File 45-199 Te Pae o Tuhoe.

<sup>53</sup> Letter from Urquhart, Roe and Partners, to The MLC Registrar, 13 June 1969, WMLC Current File 45-199 Te Pae o Tuhoe.

<sup>54</sup> Traue, J. ed., *Who's Who in New Zealand*, 11<sup>th</sup> Edition, Auckland, Reeds 1978, p. 243.

<sup>55</sup> Whakatane MLC MB vol. 47, pp 13-14, emphasis in original.



include the land in the Urewera National Park and may have been acting to protect the interests of the Maori land owners.

The Maori Land Court records do not show any action resulting from this suggestion that the Maori Affairs and Lands and Survey Departments discuss with the applicants possible uses and development of the land, and it further seems that the amalgamation of lands as Te Pae-o-Tuhoe was left unresolved. A meeting was held at Te Rewarewa Marae in Ruatoki on 25 October 1970 to discuss 'many matters concerning the Tuhoe people'. It was 'generally agreed that steps be taken to utilise Tuhoe lands that were lying idle and being rated. The question of afforestation was also raised and the owners requested that the Tuhoe Trust Board members present look into this aspect of utilisation'. There were 58 people present.<sup>56</sup>

The fact that rates were high on some blocks was another major motivator for amalgamation. John Rangihau explained to a 1973 meeting of owners that

About 10 years ago the County Council pressed for payment of rates. The Steering Committee told the Council that as they had no revenue they could not pay the rates but they would try and bring about amalgamations and lease the land to get some revenue.<sup>57</sup>

The push for the development of forestry options in Te Manawa-o-Tuhoe for the advancement of the owners continued and gained force as Maori began to negotiate with the Crown, as a letter from Piki McGarvey, a Clerk in the Development section of Maori Affairs in Rotorua, to the Title Improvement Officer, J.V. (Joe) Devcich, shows:

1. As requested, members of the Tuhoe Trust Board and representatives of the owners met the Commissioner of Crown Lands and Forestry Department in the Lands and Survey Department office, Rotorua, some two weeks ago. The Commissioner of Crown Lands stated that part of the Te Manawa-o-Tuhoe area would be suitable for inclusion in the Urewera National Park. At present, they are not too sure of the exact areas but they have land in the Matahina Forestry area for exchange. It was decided that the Commissioner of Crown Lands and Forestry Department should work out exactly what areas are involved and the [sic] advise the Trust Board.
2. The Commissioner of Crown Lands also stated that they would work on the Te Pae-o-Tuhoe amalgamation and in due course will submit proposals for the owners' consideration.

---

<sup>56</sup> Extract of Minutes of a Meeting of the Tuhoe People 25 October 1970, Whakatane MLC MB 58, p. 34.

<sup>57</sup> Report of Meeting of Owners held at Ruatoki on Friday November 1973, p. 1, WMLC Current Files 45-199.

3. It is hoped that the Commissioner of Crown lands will have something definite within a month's time to put forward to the owners.<sup>58</sup>

At this point these were just discussions with no or little legal authority to arrange binding exchanges of land. Almost three years after the initial application the Crown had still not implemented the Te Pae-o-Tuhoe amalgamation.

Te Manawa-o-Tuhoe and the matter of exchanges were heard by Judge Gillanders Scott at a Maori Land Court sitting in February 1974. The judge stated in relation to the amalgamation order and the 'lengthy special sitting' at which it was heard in 1972:

The turn of events now is clearly that all which properly should have been presented to the Court has not been so presented; that lands probably intended to be included in the amalgamation have been omitted or excluded; that part of lands included were not intended to be used in the manner contemplated in the intended trust but were intended to be put under lease for pastoral purposes to one or more Maori owners (or prospective owners); that certain parts of the amalgamated land have been the subject of (at the very least) negotiations for exchange for Crown land seems unquestionable, but how far the negotiations have been taken or for that matter authorised or capable of effective implementation is another matter.<sup>59</sup>

This was a reference to the fact that the Court had received letters from owners stating that they did not know about the amalgamation and wished to keep their lands as pastoral grazing areas for lease.<sup>60</sup> Judge Gillanders Scott then discussed the issue of exchange of lands for forestry not being brought up as an agreement on the land when the Vesting Orders were made. He said that

the remarkable thing is that Mr John Rangihau, who has been most closely associated with the amalgamation proceedings, was as taken aback (as this Court was) when the matter of prearranged exchanges and the like were raised with him by the Judge in the Registrar's office on 18<sup>th</sup> instant.<sup>61</sup>

Gillanders Scott does not appear to have approved of what he referred to as a 'packaged deal': supporting the amalgamation in return for Maori support of the exchange of Maori lands for Crown forestry lands. He also stated firmly that 'This Court has no intention of abdicating its authority in these matters – no more so than it

---

<sup>58</sup> P. McGarvey, Development, to J. Devcich, 20 June 1972. WMLC Current Files 45-189.

<sup>59</sup> Whakatane MB 58, 20 February 1974, folio 68.

<sup>60</sup> The author understands that some of these complaints were settled out of court and that Tama Nikora will give evidence on this matter.

<sup>61</sup> Whakatane MB 58, 20 February 1974, folio 72.

feels that the individual owners will want to do so'.<sup>62</sup> Nevertheless, he felt that the most important thing in this situation was that 'the relative equities of [the] respective owners [of the blocks involved in this deal] be preserved so far as that is possible, and that the owners themselves know just what is intended with their lands'.<sup>63</sup>

It was not just forestry or a need to utilise the land to pay for rates and ensure future income that drove the application for amalgamation. The desire to retain the lands of Tuhoe and protect them from permanent alienation was another strong factor. Judge Gillanders Scott noted at a 1974 hearing for the exchange of Te Manawa-o-Tuhoe lands with the Crown that

This Court was persuaded to amalgamation in no small measure by the unanimous wish of the Maori owners who appeared before it or who were in Court (and concurred) that they wished to retain the whole of the lands now comprising the amalgamated area in Maori ownership as a single unit and that a Vesting Order under Section 438 was an expedient means of ensuring its future uses and management.

As well as discussing the future of the lands with Crown Lands officials and Maori Land Court officers, and alongside the applications to the Maori land Court, Tuhoe took advantage of a ministerial visit to Ruatahuna to submit their requests for assistance.

### **2.3.2 1971 Meeting with Minister of Maori Affairs**

Duncan MacIntyre, the Minister of Maori Affairs, visited Ruatahuna in April 1971, a visit which Basset and Kay state 'advanced' the plans for the amalgamation of the Tuhoe lands.<sup>64</sup> MacIntyre was one of the most powerful members of the National government during the 1970s. He succeeded Ralph Hannan as Minister of Maori Affairs in July 1969, and remained the Minister of Lands and Forests, a position he held from 1966 to 1972. He served as Minister of Maori Affairs under Robert Muldoon 1975 to 1978, and was the Deputy Prime Minister from 1981 to 1984.<sup>65</sup> At this visit in 1971, the Minister was presented with a submission from the Tuhoe Waikaremoana Maori Trust Board, in which they covered many issues, including the Trust Board's belief that their goal to 'conserve our assets and to attend to the social and economic advancement of the Tuhoe people [would be served] if it were possible

---

<sup>62</sup> Whakatane MB 58, 20 February 1974, folio 74.

<sup>63</sup> Whakatane MB 58, 20 February 1974, folio 74.

<sup>64</sup> Bassett and Kay, p. 277.

<sup>65</sup> Agency Documentation, AAVX, Archives New Zealand, Wellington.

to administer their assets through one authority'.<sup>66</sup> The board further requested that the Minister provide them with assistance in establishing such an authority, 'by legislation where necessary'.<sup>67</sup>

The submission referred to the plans of the Trust Board regarding the development and retention of lands. It stated that the Trust Board was

currently studying these matters with the intent of obtaining a solution. In pursuance of our intent to retain the little that we do have, it is our intention to seek the return of other trusts made and to obtain better utilisation.<sup>68</sup>

In order to assist them in planning for utilisation of lands, the Trust Board asked for assistance in title improvements. The submission states:

The position in Te Urewera but more particularly at Ruatoki leave [sic] much to be desired. We took the initiative a few years ago and were almost successful in amalgamating a number of titles for the purpose of establishing the proposed Ngatirongo Incorporation. The Tuhoe Trust Board has taken a look at the situation and has quickly concluded that the services of your Department were urgently required particularly for afforestation purposes.<sup>69</sup>

Although they recognised that the assistance and powers of the Title Improvement Officers 'would be necessary' in some instances, they recorded the fact that the powers given to the Title Improvement Officers under the 1967 Amendment Act 'give some cause for anxiety'.<sup>70</sup>

The Trust Board submission further requested that any Title Improvement Officer assigned to the improvement of Tuhoe lands be 'one of Maori stock with a good working knowledge of the Maori language and that he should operate through a general committee representing the owners'.<sup>71</sup> The Title Improvement Officer involved in the Urewera amalgamation, Devcich, was not Maori nor did he operate through an official committee. Devcich was first appointed to the Native Department on 1 May 1939 and was the most senior Title Improvement Officer in the country when he was appointed to that position in 1971.<sup>72</sup>

---

<sup>66</sup> MA W2150 1/1/71 (Box 1) Minister's Visit to Ruatahuna – Maungatapu, Tuhoe Submission to Duncan MacIntyre, section 5. Also see Bassett and Kay p. 277.

<sup>67</sup> Tuhoe Submission to Duncan MacIntyre, section 5

<sup>68</sup> Tuhoe Submission to Duncan MacIntyre, section 6.

<sup>69</sup> Tuhoe Submission to Duncan MacIntyre, section 7.

<sup>70</sup> Tuhoe Submission to Duncan MacIntyre, section 7.

<sup>71</sup> Tuhoe Submission to Duncan MacIntyre, section 7.

<sup>72</sup> Public Service List 1971 p. 339.

Bassett and Kay state that

the Trust Board's main interest for land use at this time was afforestation schemes. This was in line with other similar initiatives under way in the Bay of Plenty where Maori land owners formed joint venture arrangements with forestry companies to plant forests on 'uneconomic' Maori blocks.<sup>73</sup>

The purpose of forestry was to ensure that beneficial owners of the land received an income in the future. The Trust Board also wanted to ensure that income would cover the rates to which the land was subject, since

Where land is undeveloped and where physical conditions or owners resources are limited it is inevitable that rates remain unpaid and that the owners eventually lose their land.<sup>74</sup>

Much of the land being unsuitable for farming, it was stated that 'Tuhoe look to forestry as being the answer to the economic utilisation of some of their lands'.<sup>75</sup> The board asked for assistance from the New Zealand Forest Service in the assessment of which lands would be best suited for afforestation and guidance as to 'what developments they [Tuhoe] should seek and undertake'.<sup>76</sup> It was noted that at this point the interest of Tuhoe was focused on Ruatoki, 'the potential of which has been assessed by an interested company'.<sup>77</sup>

The submission noted that the Trust Board had found that

In dealing with our applications for amalgamation for forestry purposes, the Maori Land Court has been most sympathetic and has extended to us its full co-operation in respect of searching the numerous titles and considering administrative machinery.<sup>78</sup>

They recognised, however, that for any real advances to be made they needed to establish some sort of administrative body with the powers of negotiating forestry concerns. They therefore asked the Minister to 'direct the Registrar of the Waiariki Maori Land Court to amalgamate into a series of titles all those lands within the Tuhoe area that are suitable for afforestation purposes'.<sup>79</sup> Since they believed this to be an 'exercise' of 'national importance and implication', they asked for it to be treated as a title improvement and land utilisation scheme by the Maori Affairs

---

<sup>73</sup> Bassett and Kay, pp. 277-8.

<sup>74</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>75</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>76</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>77</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>78</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>79</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

Department, and that the Minister direct the Maori Land Court to provide them with 'the services of a Title Improvement Officer'.<sup>80</sup> They further stated that they felt that 'such directives are necessary and beneficial for success on the one hand, and on the other, for reducing the time, expense and man hours involved'.<sup>81</sup>

The submission details some specific requests in regard to Ruatoki lands, but includes Waimana and Waiohau 'and also all Tuhoe bushlands' in the actions it requests for Ruatoki. It asks for a Title Improvement Officer to be assigned to 'amalgamate all our land interests in Ruatoki into one title with a view to setting up an Incorporation'. It noted that the people of Tuhoe had already established a 'land utilisation committee to assist the Title Improvement Officer'.<sup>82</sup>

#### ***2.4: Issues Arising***

The passing of the Maori Affairs Amendment Act 1967 allowed for lands in the Urewera to be amalgamated in order that they could be further developed. This was clearly something welcomed by some Urewera Maori who then sought to have their lands amalgamated under this act. The Act did not provide many safeguards. It did not, for instance, require written permission for amalgamation from all owners whose lands or interests would be affected by such a scheme. The Act did not require that amalgamation could only proceed after the Maori Land Court had been assured that all owners affected had had the process and consequences fully explained to them. It did not even require a majority of owners to be present at the Court when the application for an order was to be heard. It is also significant that the Act did not provide for funds to pay for the meetings and travel that would be required to do the above. As regards the establishment of trusts, it is unfortunate that owners were only granted, under legislation, the power to express their opinion regarding a trustee. Apperley may have been right, and in the Wairiki District they may have had an informal practice whereby the owners were the ones who both nominated the trustees and had the final say, but this was not guaranteed or protected by legislation.

The power to appeal a decision was available to owners, but this created further expense and required knowing about the hearing in the first place.

---

<sup>80</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>81</sup> Tuhoe Submission to Duncan MacIntyre, section 10.

<sup>82</sup> Tuhoe Submission to Duncan MacIntyre, section 11.

The initiative for amalgamation quite clearly came from some Urewera Maori. Whether or not these people were representative of all owners is less certain. What is also clear is that the lands involved were seen as requiring development and that this development would have been very difficult with the lands in their fragmented situation. It does not seem that any other forms of development than forestry were initially widely canvassed or discussed. The representatives of Tuhoe Maori who applied for amalgamation did so initially because of a planned exchange of lands with the Crown to take advantage of the possibilities of forestry. This meant that other forms of utilisation of the lands were possibly subsumed by the drive towards finding lands for forestry. Tama Nikora states that the initial drive for amalgamation came from a major hui held at Papueru in Ruatahuna in 1962 regarding compensation for timber cutting restrictions under the Soil Conservation and River Control Act and that the drive for forestry exchanges was quite separate and much later. Mr Nikora will offer his own evidence on this matter.

The initial drive to amalgamation may have come from Urewera Maori, but it was encouraged and facilitated by general Maori Land Court and Maori Affairs officials, such as the Registrar and the Title Improvement Officer. The role of the Title Improvement Officer was stipulated in the Act, and was asked for by the Tuhoe leaders who met with Duncan MacIntyre. However, they had wanted the Title Improvement Officer to work closely with them and to be Maori, neither of which was specifically provided for in the Act.

Eileen Barrett-Whitehead, in her study of the Rotoiti 15 Trust (a similar amalgamation carried out by the Waiariki Maori Land Court), concluded that the Court and Maori Affairs officers actively promoted the amalgamation of Maori land and subsequent vesting in a trust for administration. She argues that the number of trusts formed under section 438 of the Maori Affairs Act increased after the 1967 Amendment Act from 99 in 1967 to 392 in 1971, and that this indicates that the improvement officers were successful in carrying out governmental policy.<sup>83</sup> It could also indicate that there was a greater need to develop land usefully for income and sustenance, and that there was a greater push and awareness on the part of Maori to centralise the control of lands in a tribal authority as represented by a trust.

---

<sup>83</sup> Barrett-Whitehead, E., 'The Rotoiti 15 Trust', report for the Waitangi Tribunal, October 2001, Wai 550 record of documents A6, pp.9-10. Also see Bassett and Kay, p. 275.

Bassett and Kay cite the findings of the 1980 Royal Commission on the Maori Land Court that although trusts were a form of management 'well suited' for administration of tribal or hapu land:

Success...will come only with the will to co-operate, access to technical advice and to capital for development, together with managerial skills of a high order in the trustees and boards of management.<sup>84</sup>

Forestry related income has become a major contributor to the Tuhoe Waikaremoana Maori Trust Board and its beneficiaries.

The Commission further noted its wariness about the level of Maori Land Court involvement in 'actively encouraging corporate land administration',<sup>85</sup> and noted Maori Land Court Judge ETJ Durie's comment that the Maori Land Court had 'been largely responsible for promoting the formation of trusts'.<sup>86</sup>

Although the Royal Commission on the Maori Land Courts was wary about Maori Land Court involvement, it did encourage the use of incorporations and trusts where desired as this could assist in the resolution of the problems arising from fragmented ownership.<sup>87</sup> The commission made the point that although the Court had a role to play in 'overcoming fragmentation', it was an 'administrative rather than judicial' problem which would be best resolved by the Department of Maori Affairs.<sup>88</sup>

It seems clear that there was a large degree of support within Tuhoe for the amalgamations and this was reciprocated by the Crown as represented by Duncan MacIntyre. The number of blocks which remained in the amalgamations throughout the confused and uncertain state of the titles and despite several complaints from owners and expressed desires for exclusion from amalgamation, seems testimony to the majority of Tuhoe who believed that amalgamation was the most effective way to solve the problems created by fragmented titles and uneconomic blocks.

---

<sup>84</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H3, p. 27, cited in Bassett and Kay p. 275.

<sup>85</sup> Bassett and Kay, p. 276.

<sup>86</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H3, p. 27, cited in Bassett and Kay, p. 276.

<sup>87</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 36.

<sup>88</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 37.



## Chapter Three: Administrative Process of Amalgamation

The amalgamation of 160 blocks into four separate titles was naturally an involved process. There were meetings held to discuss it prior to the submission of applications to the Maori Land Court, an application then had to be submitted, the Court heard and made its decision on whether to grant an order for amalgamation, and then the lands were vested in a nominated trust. Lists of owners, block titles, and valuations for all of these had to be obtained.

This chapter looks at the role of the Maori Land Court in hearing the amalgamation applications and vesting the four resulting titles in the Tuhoe Waikaremoana Maori Trust Board. It also looks at the role of the Maori Affairs officers and Title Improvement officers in facilitating or directing amalgamation affairs. The focus of this report is on the Crown rather than Tuhoe objectives for amalgamation. Alongside this is an examination of the extent to which owners in these lands were consulted about their attitude towards amalgamation; and whether or not they wanted to include their lands. The decision to vest land in the Trust Board and later in other trusts is looked at here, as is the process whereby valuation figures were reached for these lands.

Tables showing the former blocks involved in each of the amalgamated titles are included in Appendix Two of this report.

### ***3.1: Maori Land Court***

The Maori Land Court had long had a history of paternalistic decisions regarding Maori land. In a submission to the Court, John Grant, lawyer for the claimants in the Tuhoe Kaaku rehearing, reflected on this:

The paternalistic role of the Maori Land Court entered a new phase in the mid-twentieth century when a perceived commercial naivety [sic] among Maori saw the Court approach its task with the object of protecting Maori land from uneconomic use and exploitation. ...By 1980, the Court had returned to a phase where the emphasis moved from protector to facilitator. Assimilation was no longer a goal. Instead, facilitating better use and management of Maori land came to be regarded as the key to retention of Maori land in Maori ownership.<sup>89</sup>

---

<sup>89</sup> Whakatane MB 58 pp. 186-88, 23 March 1995, submission of John Grant.

Grant became Chief Registrar of the Maori Land Court in 1996.

Regardless of this alleged shift to facilitator, the Court was still operating on a system where it was deciding what was in the best interests of the owners rather than simply ratifying owners' stated wishes. The Court did state that it was

conscious of its duty to ensure the retention of Maori land in the hands of Maori and of necessity must cautiously exercise powers that might have the effect of exposing this land to increased risk of alienation from Tuhoe.<sup>90</sup>

The role of the Maori Land Court at the date of the amalgamations was uncertain in many ways. The 1980 Royal Commission of Inquiry into the Maori Land Courts noted that

As far as the ownership and use of Maori land is concerned, some of the judges see their objectives as basically similar to those of the department [of Maori Affairs]. These judges use their jurisdiction to encourage Maori owners to retain and administer their land for their own use and benefit. They are active in initiating land use schemes for the benefit of the Maori owners.<sup>91</sup>

The report noted that 'while this is a laudable aim, it does raise important questions on the nature of the Maori Land Court and its relationship with its departmental servicing body'.<sup>92</sup>

The Maori Land Court also experienced several handicaps in that it had a lack of technical services such as mapping, title searches, and reports, and there was little funding available to finance these services.<sup>93</sup>

Other questions that were raised in the Royal Commission Report were to do with the role of the Registrar of the Maori Land Court who was invariably also the District Officer of the Department of Maori Affairs. The report noted that:

As the Court was only part of the responsibilities held by the district officer (who often had little or no experience in Court work), the duties were delegated to the deputy registrar who had under his direct control a title improvement section and a court section.<sup>94</sup>

---

<sup>90</sup> Whakatane MB 58, 23 March 1995, p. 190.

<sup>91</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 50.

<sup>92</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 50.

<sup>93</sup> Communication from Tama Nikora, Secretary Tuhoe Waikaremoana Maori Trust Board, 21 June 2004.

<sup>94</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 49.

The commission went on to note the ‘undesirability’ of the registrar and the District Officer being one and the same because of a possible conflict of interest.<sup>95</sup> What they do not specifically point out is that the dual charge over the title improvement section and court section held by the Deputy Registrar contributed to the role taken on by the Court of encouraging Maori to administer their lands through land use schemes. The Title Improvement Officer was listed in the Department of Maori Affairs in the Public Service Lists, but operated with and in the Maori Land Court.

The first amalgamation of blocks in the area which in 1972 became Te Manawa-o-Tuhoe was made on 21 July 1970 at a Court sitting under Judge Gillanders Scott.<sup>96</sup> At this sitting the Court stated that the application for amalgamation

has its genesis in a sitting of the Maori Land Court at Ruatoki on 15<sup>th</sup> and 16<sup>th</sup> April 1970 when after lengthy discussion by some 100 owners of and others “having an interest” in one or more of the instant lands there was general and unanimous agreements that the lands should be amalgamated under Section 435 in a single title in readiness for utilization for afforestation and allied purposes. Early in the discussion the Court itself prepared appropriate applications, and it was thereon and in relation thereto that the discussion ensued, though it was explained to those present that such applications required formal notification in the panui, and that the order they sought would have to be delayed until the July 1970 sittings of the Court to meet the requirements of the Statute.<sup>97</sup>

Tama Nikora notes the importance of afforestation leases in the development of land which would otherwise remain undeveloped because of a lack of resources on the part of the owners. Nikora was, along with George Evans, responsible for getting the New Zealand Forest Service to concede that their 99 year duration for the Te Manawa lease was unreasonable and to offer a 30 year lease instead.<sup>98</sup>

An order was made under section 435 amalgamating 27 blocks ‘in all owners in their respective shares on basis of Rating Roll Cap. Values’ under the style of Tuhoe, and another order under section 438 vesting the new amalgamated title in the New Zealand Insurance Company Limited (Trust Department) as a responsible trustee. Seven advisory trustees were appointed from the owners.<sup>99</sup>

---

<sup>95</sup> ‘The Maori Land Courts: Report of the Royal Commission of Inquiry’, AJHR, 1980, H-3, p. 49.

<sup>96</sup> The earlier application for the amalgamation of Te Pae-o-Tuhoe in 1969 had not been finalised.

<sup>97</sup> MLC Whakatane MB 49 folio 68.

<sup>98</sup> Communication from Tama Nikora, Secretary of Tuhoe Waikaremoana Maori Trust Board, 21 June 2004.

<sup>99</sup> MLC Whakatane MB 49 folios 68-70.

Notable things about this early amalgamation are that the Court took on an active role in preparing applications for amalgamation on the basis of discussions at a hearing. These applications were then required to be formally notified in the panui. Because of the intention to lease the land for forestry purposes, an additional order was made allowing:

Notwithstanding that the lands set out in the Schedule hereto have been amalgamated into a single title under the style of "Tuhoe" to sell forthwith for cash all or any millable indiginous [sic] or exotic timber trees standing upon the same and after payment from the proceeds of such sales of its usual costs disbursements charges commissions out-of-pocket expenses and the like as well as any title charges to which the land or lands or any of them is otherwise subject, then to pay the nett amount of the proceeds of sale to the respective owners of the said former lands in direct proportion to their relative interest therein as though the same had not been amalgamated into a single unit.<sup>100</sup>

The second, major, amalgamation came at a hearing on 14 February 1972, on application from John Rangihau and Piki McGarvey 'for applicants and Tuhoe people generally in support', and supported by Deputy Registrar H. P. Martin and by Registrar Apperley.<sup>101</sup> Martin stated that the New Zealand Insurance Company was 'content that on re-arrangement of titles that Tuhoe Trust Board be the responsible trustee'.<sup>102</sup> Apperley stated that he had

Attended 3 meetings of Tuhoe Trust Board at which this matter discussed the last yesterday when almost whole day devoted thereto in open meeting with some 25 representatives of owners. Agreement unanimous. Also referable to meeting at Mataatua with Hon. Duncan MacIntyre at special 2 day meeting.<sup>103</sup>

This statement indicates that the involvement of the Registrar in the production of the applications for amalgamation had been fairly substantial.

On 14 February 1972, 63 blocks were amalgamated into Te Manawa-o-Tuhoe, 33 into Te Pae-o-Tuhoe, 21 into Tuhoe Kaaku, and 43 into Tuhoe Tuawhenua. Advisory trustees were granted for Te Manawa-o-Tuhoe and Te Pae-o-Tuhoe was vested in the Tuhoe Waikaremoana Maori Trust Board 'by consent', with Paki McGarvey, Rei Wiringi and Piki Patrick McGarvey provided as advisory trustees. The as yet unwritten Terms of Trust was also to provide that 'notwithstanding amalgamation due

---

<sup>100</sup> MLC Whakatane MB 49 folio 71.

<sup>101</sup> MLC Whakatane MB 52, folios 170-173

<sup>102</sup> MLC Whakatane MB 52, folios 170-173.

<sup>103</sup> MLC Whakatane MB 52, folios 170-173 Emphasis in original.

provision for value of standing timber trees [is to be awarded] in cash or exchange value to owners of lands... [containing timber trees] prior to [amalgamation] in respective shares'.<sup>104</sup> Devcich stated the following year that the list of owners for Te Manawa-o-Tuhoe came to 1,528 with a total share base of 47,575.<sup>105</sup> Devcich further noted that the Court 'would be asked for an order' vesting Te Manawa-o-Tuhoe in the Tuhoe Waikaremoana Maori Trust Board, and that of the five advisory trustees appointed on 14 February 1972 one had died. He also noted that a draft order requesting Terms of Trust should be submitted to the Court.<sup>106</sup> At this point, the block had still to be vested in the Trust Board.

One of the reasons for the delay in vesting the lands in the Trust Board was the incomplete valuations. This had led to a verbal application for a rehearing placed by Philip.W. Patrick, who was at that stage a senior court clerk and who was to become Deputy Registrar and later Registrar of the Waiariki Maori Land Court. The application for rehearing was adjourned 'sine die', in the hopes that it could be sorted out without resorting to another hearing.

### ***3.2: Role of Maori Affairs Officers and Title Improvement Officers***

In February 1972, the Deputy Registrar, H.P. Martin, filed an internal memo regarding the creation of the four amalgamated Tuhoe blocks. He stated that 'The task of compiling the lists for the new titles is a big one and I suggest that you proceed immediately to spread the work amongst your staff – that is you can give various members a list each to do.' He noted that he had directed Devcich to do the same. Martin also pointed out that 'the amalgamation is on the basis of the capital value in the existing roll valuations' and that the first step that the Court staff should do was 'note in the Minute Book the valuation of each block. This must be checked carefully to see that the correct value is applied in each case'.<sup>107</sup>

At the 1972 hearing at which these blocks were amalgamated, Apperley made the statement that he had attended several meetings of Tuhoe Trust Board at which

---

<sup>104</sup> Whakatane MLC MB vol. 52, p. 175.

<sup>105</sup> J.V. Devcich Title Improvement Officer, memorandum for Registrar, 7 November 1973, WMLC Current Files 45-189.

<sup>106</sup> J.V. Devcich Title Improvement Officer, memorandum for Registrar, 7 November 1973, WMLC Current Files 45-189.

<sup>107</sup> Memorandum from H.P. Martin, Deputy Registrar, to Senior Court Clerk, 15 February 1972, WMLC Current Files 45-189.

amalgamation had been discussed. Gillanders Scott claimed in a later appendix to his memorandum to the High Court that he was 'quite unaware that this [meeting] was being held'. He said that

looking now at the fresh applications it is clear that they were prepared and typed by the Department. Both Mr Rangihau and Mr McGarvey were on the staff. Mr Rangihau was District Welfare Officer; Mr McGarvey a Senior Officer in the "Development" (land utilization) Section.<sup>108</sup>

Patrick, now the Deputy Registrar, sent an internal memorandum to Devcich outlining the process that the amalgamation should be taking in administrative terms. Devcich was to use a general minute book and keep it as a special amalgamation minute book. He and his staff were given instructions regarding the compilation of a list of owners. Patrick asked them to compile the name and sex of each owner, the description of the land and the number of shares held onto cards, which were then to be 'amalgamated in strict alphabetical order', combining cards when an owner had shares in more than one block. The information from each card was then to be entered into the minute book, still in alphabetical order, and 'when valuations are received then the apportionment to owners' shares can then be made direct from the photo-copy lists to the Minute Book'.<sup>109</sup> This exchange shows that staff were aware that orders had been made which required action, a pertinent fact given the subsequent confusion over this very matter.

A file note from Devcich dated 19 December 1973 outlines a discussion he had with the Secretary of the Tuhoe Waikaremoana Maori Trust Board, Timoti Buddy Nikora (referred to as Buddy Nikora), regarding proposed exclusions from the amalgamation when the latter called him at the office. Nikora stated he had given 'full details to Chairman who agreed they should implement all the proposals [for exclusion]'. Devcich contacted the District Officer and, despite the Trust Board and the owners agreeing on the exclusions, was told to see the Deputy Registrar 'as all orders are made did not want the matter continuing. Had to be brought to finality. I agreed they had their opportunity [sic] at Meeting & Court.'<sup>110</sup>

---

<sup>108</sup> Appendix to Memorandum of Retired Chief Judge K. Gillanders Scott, WMLC Current File, 45-198 v.1.

<sup>109</sup> P.W. Patrick, Deputy Registrar, to J.V. Devcich, Title Improvement Officer, 4 May 1973, WMLC Current Files 45-189.

<sup>110</sup> File Note by JV Devcich, 19 December 1973, WMLC Current Files 45-189.

The Deputy Registrar passed it over to the Trust Board 'to do all the work'.<sup>111</sup> A meeting with Buddy Nikora and Ken Hingston (the solicitor for the Trust) on 21 December came to some resolutions. Nikora and Hingston 'agreed with proposals if Dept could do job', and after a 'very full discussion', they decided to refer the matter to Mr Tumoana, who had sent in the query regarding the possibility of excluding his lands from the amalgamation to advise him that 'the Tuhoe Waikaremoana Trust Board would not be asking the Court for any further amendments, but if he wanted to have any partitions made it would have to be at his own expense'.<sup>112</sup> Tumoana's request that his interests in Kawekawe block be partitioned out would have required a survey, which would have to be paid for. It was the belief of the Trust Board that the interest of all the owners in the block would be served more effectively by committing the land to forestry. The author understands that the issue of Tumoana's desired exclusions and the development of the block as a whole was settled out of court by the Trust Board and Tumoana, who eventually agreed to the amalgamation of his interests.<sup>113</sup>

A memo dated 16 January 1974 explained the Court's position in regard to changing orders already made in regard to the amalgamated blocks. The Deputy Registrar informed the Registrar that

The question of whether or not we would on our own, at the request of owners, put forward to the Court proposals for amending the existing Orders was discussed before Christmas with Mr Hingston, Mr Tait and Mr McGarvey... It was generally agreed that the Court has made final Orders. In the circumstances any amendment to these Orders will require a substantive application and in each case such applications were to be filed by Mr Hingston.<sup>114</sup>

### ***3.3: Consultation with Owners***

The Court and departmental officials were largely content to leave the consultation of owners up to the Trust Board Steering Committee, until it was brought to their attention that many owners were unaware of the amalgamation proposals and orders.

---

<sup>111</sup> File Note by JV Devcich, 20 December 1973, WMLC Current Files 45-189

<sup>112</sup> File Note by JV Devcich, 21 December 1973, WMLC Current Files 45-189

<sup>113</sup> Information supplied by Tama Nikora, Secretary of Tuhoe Waikaremoana Maori Trust Board, who will be providing further evidence on this matter.

<sup>114</sup> Memo from Deputy Registrar MLC to Registrar MLC 16 January 1974, WMLC Current Files 45-199.

As a consequence, Devcich requested that P. McGarvey submit to the Court minutes of all meetings held by the owners in regards to amalgamation of lands. The extracts from these minutes were submitted and placed in the Whakatane Minute Book 58.

The Trust Board Steering Committee had a fiduciary duty of consultation under the 1955 Act, but was likely operating on inadequate funds from the Crown for extensive consultation. It is clear that the Trust Board did conduct several hui on amalgamation during the 1960s and 1970s. An undated paper signed by John Rangihau, situated in the Elsdon Craig briefing papers for the 1971 hui at Ruatahuna with the Minister of Maori Affairs, refers to three seminars held discussing Tuhoe assets, land utilisation, and human resources.<sup>115</sup> The first of these was conducted by Pare Hopa, and at that time Tuhoe's 'most immediate assets' was seen as the Trust Board. Professor McCreary addressed the seminar on evaluating Tuhoe's human resources, and the seminar examining Tuhoe land holdings and means of land utilisation was conducted by Professor Hugh Kawharu.<sup>116</sup> Also in these briefing papers is a section on 'Idle Lands', in which it is stated that:

proposals are under way to amalgamate the titles to a large number of idle blocks consisting mainly of hill country in the vicinity of Ruatoki and Waiohau, with the object of entering into an afforestation lease.<sup>117</sup>

In order to move these proposals forward:

the initiative has been taken by representative owners who have called a number of informal meetings of owners and gained general support for the proposals. These leading owners have also prosecuted the [1969] applications before the Maori Land Court.<sup>118</sup>

In an appendix to his statement for the 1984 High Court Hearing for Tuhoe Tuawhenua, Judge Gillanders Scott gave an outline of the hui which he was aware of having occurred:

"Amalgamation" was the principal matter discussed at the Tuhoe General Meeting held in June 1967 at Ruatoki, when the Hon. J.R. Hanan was its guest; compensation for restrictions upon timber milling was also discussed... A year's negotiations culminated in the holding on 15

---

<sup>115</sup> Undated Paper 'Relocation and Cultural', noted as signed by John Rangihau, in Elsdon Craig Correspondence and Briefing Papers, MS Papers 7888 037, Alexander Turnbull Library, Wellington.

<sup>116</sup> Undated Paper 'Relocation and Cultural', noted as signed by John Rangihau, in Elsdon Craig Correspondence and Briefing Papers, MS Papers 7888 037, Alexander Turnbull Library, Wellington.

<sup>117</sup> Note on 'Idle Lands', Elsdon Craig Correspondence and Briefing Papers, MS Papers 7888 037, Alexander Turnbull Library, Wellington.

<sup>118</sup> Note on 'Idle Lands', Elsdon Craig Correspondence and Briefing Papers, MS Papers 7888 037, Alexander Turnbull Library, Wellington.



November 1968 of a Tuhoe seminar on land utilization at Ruatoki” the guest speaker was Dr Hugh Kawharu who advised the Tuhoe people to use the Tuhoe Maori Trust Board to better effect. Campaigning following and a further general meeting was held at Tauarau Marae on 17 May 1969. On 8 July 1969 the Maori Land Court considered an application for amalgamation of some 34 blocks – now known as Te Pae-o-Tuhoe... a further meeting [was held] at Te Umuroa Marae at Ruatahuna on 31 January 1970. In March 1970 the Tuhoe elders met at Maungapohatu. On 29 May 1970 the Tuhoe elders met at Kuha Marae, Waikaremoana. It was in May 1970 that the Urewera National Park Board draft management plan considered that Maori land enclaves should be added to the park.<sup>119</sup>

Only a few of these meetings referred to by Gillanders Scott have minutes submitted to the Maori Land Court and so on public record. In the first of the minutes submitted to the Maori Land Court, dated 17 May 1969, 47 people are recorded as being present, and Ramahaki Rangiaho and Rei Wiringi moved that ‘all blocks not required for farming be amalgamated for afforestation purposes and the bush-lands like wise for sale of timber, compensation or exchange with the Crown’. This motion was carried.<sup>120</sup> Afforestation and the question of utilisation came up again a year later at a meeting with 58 people in attendance. The minutes note:

this meeting discussed many matters concerning the Tuhoe people and it was generally agreed that steps be taken to utilise Tuhoe lands that were lying idle and being rated. The question of afforestation was also raised and the owners requested the Tuhoe Trust Board members present look into this aspect of utilisation.<sup>121</sup>

A month later, a much smaller meeting of 13 people met as the Tuhoe Trust Board Planning Committee, and resolved to put a resolution to a general meeting of owners:

That this meeting of owners resolve to employ the Tuhoe Trust Board to act on behalf of the owners and to employ Counsel if necessary, to inquire in to the pros and cons of the draft Trust Agreement for all that land known as Tuhoe comprising 13,008 acres and to report back to a general meeting of owners and, further, that the costs involved become a proper charge against the blocks and owners concerned.<sup>122</sup>

The author has seen no minutes from this general meeting of owners at which the proposal of having the Trust Board act for them was put. That the Planning

---

<sup>119</sup> Appendix to Memorandum of Retired Chief Judge K. Gillanders Scott, WMLC Current File, 45-198 v.1.

<sup>120</sup> Extract of Meeting of Owners held at Tauarau Marae, 17 May 1969, Whakatane MLC MB 58, p. 32.

<sup>121</sup> Extract of Meeting of Tuhoe People held at Rewarewa Marae, 25 October 1975, Whakatane MLC MB 58, p. 34

<sup>122</sup> Extract of Meeting of Tuhoe Trust Board Planning Committee, 28 November 1970, Whakatane MLC MB 58 p. 36.

Committee continued to work towards amalgamation, however, indicates that the owners present at the general meeting had supported their motion to employ the Trust Board as representatives. In October 1971, nearly a year later, a Tuhoe Trust Board Planning Committee meeting 'deplored the continuing delay in amalgamatin [sic] and establishing the Trust order', and resolved to employ Mr Hingston as a solicitor to 'present the amalgamation and Trust Orders as expeditiously as possible'.<sup>123</sup>

In February 1972, the day before the amalgamation applications came before the Court, 11 members of the now named Tuhoe Waikaremoana Planning Committee met with Apperley who was recorded as saying:

That after the Minister of Maori Affairs had met the Tuhoe people at Ruatahuna in April 1971 his Department sought an amendment to the legislation to allow Maori Trust Boards to accept Trusts and this was passed by Parliament in December 1971, thus paving the way to solve the land problems of Tuhoe.

Apperley also asked the Committee to 'give urgent consideration to [having] their lands amalgamated and vested in responsible persons in order to arrange better utilisation'.<sup>124</sup> John Rangihau then explained how the Trust Board had been meeting every month and that 'it had to date, played a major role in seeking the solution of all Tuhoe land problems'. He talked about the 'advantages of centralised control'. Following this it was resolved that they recommend to the Court that the Tuhoe Waikaremoana Maori Trust Board be appointed as the administrator of amalgamated lands.<sup>125</sup> This is what Tuhoe proposed to MacIntyre at Ruatahuna in 1971. The Auckland Star reported MacIntyre as saying that:

He would do all he could to help Tuhoe realize its dream and gave his promise that his departmental officer – Maori Affairs, Lands, and Forestry – would work with the board to try to find a solution to Tuhoe's problems.<sup>126</sup>

A month after the orders for the amalgamated titles had been made, the Tuhoe Waikaremoana Planning Committee heard from Hingston that it would take up to two years to complete a proposal for leasing the land for forestry purposes and that that process should begin as soon as possible. The meeting resolved that the Board

---

<sup>123</sup> Extract from Minutes of the Tuhoe Trust Board Planning Committee, 1 October 1971, Whakatane MLC MB 58, p. 40.

<sup>124</sup> Extract from Minutes of the Tuhoe-Waikaremoana Planning Committee, 13 February 1972, Whakatane MLC MB 58, p. 42.

<sup>125</sup> Extract from Minutes of the Tuhoe-Waikaremoana Planning Committee, 13 February 1972, Whakatane MLC MB 58, p. 42

authorise Mr Hingston to 'enter into correspondence with all possible interested parties for forestry purposes'.<sup>127</sup>

In April 1972 the Planning Committee of the Tuhoe Waikaremoana Maori Trust Board held a meeting attended by 160 people 'to discuss their lands which were in the process of being vested in the Tuhoe Waikaremoana Maori Trust Board under a Trust Order'. The Planning Committee was an investigatory committee with no power to commit the Trust Board to any action. The committee minutes should be read as discussion documents. Hingston explained to the meeting the 'implications of the Trust Orders approved by the Court, amalgamation, vesting in the Trust Board as responsible Trustee. Tahi Tait, one of the Planning Committee members, explained to the meeting the 'basis on which amalgamation had been approved by the Court'. The owners present 'felt that the fairest way would be to amalgamate on land values' and 'requested Mr Hingston and the Trust Board to speed things towards completion'.<sup>128</sup>

Another meeting was held at Te Rewarewa Marae on 27 August 1972, and this one was attended by 50 people in addition to the Planning Committee members. Hingston explained to the meeting the status of the amalgamation, and that

as far as the Trust relating to the Manawa o Tuhoe is concerned he has had discussions with officers of the Lands and Survey Department regarding exchanges and made it clear to the officers of the Crown that the owners did not want to sell part of their land but to make exchanges instead. On the face of things it appears that there are various companies interested in obtaining this land for afforestation purposes and already Caxton have had a look at plans and the land itself.<sup>129</sup>

It was noted that 'many owners asked questions about certain matters relating to the Trust', but that the final resolution was that Trust Board 'press on with the leasing of the land in view of the large amount of rates owing on the various blocks.'<sup>130</sup>

The proposed forestry offer put forward by Caxton was 'vetted by Mr Groome, a Forestry Consultant Expert, on behalf of the Board', and Hingston recommended the

---

<sup>126</sup> *Auckland Star*, Monday 26 April 1971.

<sup>127</sup> Extract from Minutes of the Tuhoe-Waikaremoana Planning Committee, 12 March 1972, Whakatane MLC MB 58, p. 44.

<sup>128</sup> Extract from Minutes of the Planning Committee of the Tuhoe-Waikaremoana Maori Trust Board, 15 April 1972, Whakatane MLC MB 58 p. 46.

<sup>129</sup> Extract from Minutes of the Planning Committee of the Tuhoe-Waikaremoana Maori Trust Board, 27 August 1972, Whakatane MLC MB 58 p. 48.

<sup>130</sup> Extract from Minutes of the Planning Committee of the Tuhoe-Waikaremoana Maori Trust Board, 27 August 1972, Whakatane MLC MB 58 p. 48.

offer as a good one. A meeting of about 70 owners plus the Trust Board members held at Tauarau marae in Ruatoki in April 1973 resolved to accept the Caxton offer.<sup>131</sup>

Devcich travelled to Ruatoki in July 1973 to inspect several of the blocks which some owners had indicated by letter they wished to exclude from the amalgamation. He submitted his findings to the Registrar and Deputy Registrar on 12 July 1973. In his report of the several sections that he had decided should be excluded (those under lease or in pasture), he raises some significant points. Devcich noted that in some cases 'there does not appear to be any evidence that the lessee has agreed to such an amalgamation', and that many owners or occupiers of 'grassed and fenced areas' would 'strongly oppose' these lands being taken for forestry because 'they understood that this would not be the case'.<sup>132</sup> The Trust Board's ability to cater to individual lessees was restricted in one sense by the need to act in the interests of the majority of owners, rather than individuals. Devcich's findings that some lessees were apparently of the belief that their lands would not be taken for forestry indicates that there had been a certain amount of confusion surrounding the plans for amalgamation, and that people had come away with a sometimes erroneous view of what was going to happen with their lands. Whether or not this was because they had misunderstood the information given at various hui or because they were not in attendance at the hui is not known.

This situation was not helped by the Court and departmental insistence on dealing with the Tuhoe Waikaremoana Trust Board rather than with individual owners. The Court should have held its own meetings at which individuals could have put their views. Director-General of the Department of Lands and Survey, R.H. Maclachlan, wrote to Kara Puketapu, the Secretary of the Maori and Island Affairs Department to enquire about the proposed meetings of owners prior to finalising amalgamation and the exchange of lands with the Crown. He wrote that he understood that the Board of Maori Affairs had recently approved a 'calling of meetings of assembled owners as a first step in finalising this exchange', and stated that

---

<sup>131</sup> Extract from Minutes of Meeting held at Tauarau Marae, Ruatoki, 15 April 1973, Whakatane MLC MB 58, p. 50.

<sup>132</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar and Registrar of the Maori Land Court, 12 July 1973, WMLC Current Files 45-189. The author understands that several of these cases were negotiated out of court to the satisfaction of all parties, and that Tama Nikora will give evidence on this matter.

it is the intention of the Crown to deal directly with the Trust when the Maori Land Court has made an order amalgamating all the blocks concerned. In other words it was not intended that individual meetings of owners should be held for each of the individual blocks affected.<sup>133</sup>

The Chief Surveyor wrote to the Registrar of the Maori Land Court to inform him that he had

requested of my Head Office that the Board of Maori Affairs be asked to amend their approved paper so the Crown will negotiate with the Trustees rather than through meetings of assembled owners of blocks which have now been amalgamated.

The Blocks which are to be left out of the proposal to amalgamate, do not appear to effect the portion of the amalgamated block in which the Crown is interested.<sup>134</sup>

The Board of Maori Affairs did not oppose this change.<sup>135</sup>

A note from the Deputy Registrar to the Registrar on 18 July 1973, concerning the Te Manawa-o-Tuhoe amalgamation, is illuminative of several things and is worth quoting at length:

I anticipated that loose ends connected with this job would be tied up in time for the application to be brought on for finality at the next Whakatane sitting which starts on 23 July.

3. This will not now happen. Various snags have cropped up and will take some time to iron out.

4. The first is that the Steering Committee for the Tuhoe Trust Board did not get their facts straight when the application was submitted to the Court.

5. It appears that many of the lands involved are partly grassed and farmed in some cases under formal leases. In others, there are now outright objections by the owners to be joined in the amalgamation.

6. This will mean that in the particular blocks concerned the extent of areas to be excluded have to be defined and valuations made of the balance areas.

7. Mr Devcich and Mr Matt Wilson from Lands and Survey went to Ruatoki with the intention of inspecting four blocks as to areas to be excluded. They ended up inspecting seven other blocks in the time available to them and in each case, the problem of partial development and occupation arose.

---

<sup>133</sup> R.J. Maclachlan, Director-General Department of Lands and Survey, to The Secretary Maori and Island Affairs Department, 2 July 1973, WMLC Current Files 45-189.

<sup>134</sup> C.M. Rainsford, Chief Surveyor, to The Registrar Maori Land Court, 10 July 1973, WMLC Current Files 45-189.

<sup>135</sup> Internal Memo from M.J. Fromont, for Secretary, to Rotorua Maori Affairs, 11 July 1973, WMLC Current Files 45-189, f.60.

8. Other lands in the Scheme not inspected could well be in the same category. There are 60 blocks involved in the title improvement job....

10. Before the application was filed, these aspects should have been resolved but the Committee gave no indication then that these problems would arise.

11. The position is to be outlined to Mr Reg Nikora, Secretary of the Western Tuhoe Maori Executive Committee and spokesman for the Steering Committee on the proposed amalgamation. When we receive a reply from him, we will then know whether it would be necessary to inspect the remaining blocks or go ahead as at present.<sup>136</sup>

It is interesting to note that Patrick's tone in this memorandum is very much one of disapproval that the Trust Board committee had not performed as it was supposed to in obtaining consents from all owners. He does not appear to consider that the Court should properly have been responsible for investigating and obtaining this consent.

In a handwritten note attached to the file, Registrar J.E. Cater made the very valid point that 'We seem to have studiously avoided any direct contact with owners. We can make no progress until we establish such contact'.<sup>137</sup> He directed Deputy Registrar Patrick to call the Steering Committee 'with a view to sending notices to owners in the blocks under dispute and inviting them to agree to our proposals'.<sup>138</sup> Cater stated that he would 'sit in on all discussions' with the Steering Committee for this purpose. He also noted that 'Properly we should send notices to all owners of the areas to be amalgamated & [attend?] a meeting in say Ruatoki at which maps will be available, and which would be attended by [the District Officer, the Deputy Registrar, and the Title Improvement Officer], and other staff'.<sup>139</sup> This was given to Devcich to action and on 31 July 1973 he sent copies of these papers to Piki McGarvey and John Rangihau informing them that the District Officer wanted to meet with members of the Steering Committee to discuss the matter.<sup>140</sup>

A meeting with the Steering Committee subsequently took place on 9 August. It was attended by the District Officer, Devcich as Title Improvement Officer, and the Deputy Registrar, as well as P. Parata from the Maori Land Court. The Steering Committee members present were John Rangihau, Piki McGarvey, Buddy Nikora,

---

<sup>136</sup> P.W. Patrick, Deputy Registrar, to Registrar, 18 July 1973, WMLC Current Files 45-189.

<sup>137</sup> Cater, Registrar, File Note 26 July 1973, WMLC Current Files 45-189.

<sup>138</sup> Cater, Registrar, File Note 26 July 1973, WMLC Current Files 45-189.

<sup>139</sup> Cater, Registrar, File Note 26 July 1973, WMLC Current Files 45-189.

<sup>140</sup> J.V. Devcich, Title Improvement Officer, to Piki McGarvey and John Rangihau, 31 July 1973, WMLC Current Files 45-189.

Tahi Tait, Kenneth Hingston, and Tama Nikora.<sup>141</sup> The meeting discussed several blocks and decided to exclude either parts of them or the whole block. The blocks involved were within Te Manawa-o-Tuhoe and were: Ngautoko, Te Pohue 1B, Poutere, Puketapu 2, Te Pohue 2, Ruatoki B65, Waiohau C27, and Oputea B2. These last three were to be excluded in their entirety.<sup>142</sup>

General decisions of the meeting included the request from the Court for the 'various minutes held by the Steering Committee covering meetings with owners for the amalgamation of the various titles'.<sup>143</sup> Rangihau was to be given several forms of agreement in relation to the partitions or exclusions agreed upon which he was to take to 'the owners concerned to obtain their consents'.<sup>144</sup> Additionally, he was to take a list of owners to a meeting being held at the weekend to get addresses. It was further:

proposed to ask the Court to sit at Ruatoki on the re-hearing of this application. A special notice will require to be circulated to all owners and also newspapers. In the notice to be circulated, is to be a statement by the Chairman of the Trust Board as to the reasons for the proposed amalgamation.<sup>145</sup>

John Rangihau reported back on progress from a subsequent owners' meeting held on 14 August 1973:

1. As discussed with you and other Departmental Officers, Messrs Nikora, Rangihau and McGarvey, visited Ruatoki over the weekend to have further discussions with the people and to acquaint them of the things that are needed to be done before Orders can be made at the Court.
2. We held four meetings....and...we proceeded to get signatures for the consents of those blocks which consents were needed as discussed with you.
3. The position is that we are desirous of obtaining a 51% consent so that the Court will be better assured of the fact of people knowing about the whole proposal.
4. This means that some of the folk in Ruatoki will be busy engaged in going around to obtain signatures from places as far away as Opotiki and Tauranga and also from Ruatahuna and around this Rotorua district. We have planned for these consents to be back in District Office by Friday 17 August.
5. The people are very enthusiastic about the whole idea and now that it is getting closer, they see a dream being fulfilled and especially as one of the

---

<sup>141</sup> Notes from Meeting In District Officer's Room 9 August 1973, WMLC Current Files 45-189.

<sup>142</sup> Notes from Meeting In District Officer's Room 9 August 1973, WMLC Current Files 45-189.

<sup>143</sup> Notes from Meeting In District Officer's Room 9 August 1973, WMLC Current Files 45-189.

<sup>144</sup> Notes from Meeting In District Officer's Room 9 August 1973, WMLC Current Files 45-189.

<sup>145</sup> Notes from Meeting In District Officer's Room 9 August 1973, WMLC Current Files 45-189.

things that we try to do is to get names of some 20 people to provide a work force which Caxton has asked for. We have the names of those people together with two very responsible men whom they have put up to ensure that the younger ones work in with the whole plan.

6. We have seen Mr Pouwhare and Mr Nohotima [both of whom wished to have their land excluded] and had a long discussion with them and they of course, agree completely with the proposals that we have put up to them according to the instructions on the consent forms which are now circulating around Ruatoki. Indeed, I use this form as a means of assuring the people of our good faith and of the desires of the Department to help in as practical a manner as possible within the short time...Maybe perhaps, because we have reached this stage that I took a much longer time to explain all that is happening in the Department meetings that were called, and I believe that it has been worthwhile and that we will continue to do this sort of thing until the Court is held in Ruatoki.<sup>146</sup>

Devcich noted that Rangihau did 'apparently not get any' of the addresses he had been requested to obtain.<sup>147</sup> Rangihau was unlikely to have been given funding from the Crown for locating owners and consulting them. The lack of addresses was a significant drawback for the Court staff, and it was probably a result of the severe fragmentation of interests that the owners of lands dealt with by the Maori Land Court did not have recorded addresses on the Court files. The Court staff, no doubt, could have rectified this matter themselves and that they did not suggests inefficiency in the office.

A meeting of owners and government officials was held at Ruatoki on 23 November 1973. This meeting had been advertised through a notice sent out by the Maori Land Court Registrar, which announced where lists of the lands and owners involved in the proposed amalgamation would be on display, the purpose of the meeting, and a sitting of the Maori Land Court at Ruatoki on 24 November.<sup>148</sup> Manu Paul had been asked to 'expound on this notice', on his local radio programme.<sup>149</sup> Buddy Nikora had been asked to 'display the attached notice and compiled lists in a prominent position',<sup>150</sup> and a letter was sent with the notice to Bill Kerekere of the Maori Programmes section of New Zealand Broadcasting in Wellington asking him to include the notice

---

<sup>146</sup> John Rangihau, District Maori Welfare Officer, to District Officer, 14 August 1973, WMLC Current Files 45-189.

<sup>147</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 15 August 1973, WMLC Current Files 45-189.

<sup>148</sup> Maori Land Court Notice, WMLC Current Files 45-189, folio 134.

<sup>149</sup> Te P. Parata for Registrar to Manu Paul, 14 November 1973, WMLC Current Files 45-199.

<sup>150</sup> Te P. Parata for Registrar to T.B. Nikora, 9 November 1973, WMLC Current Files 45-199.



in the Maori news on Sunday.<sup>151</sup> The notice was also advertised in the *Whakatane Beacon* and other newspapers.<sup>152</sup>

The report of the meeting by Devcich stated that 170 owners were present. Given that this was out of a total of 711 owners in Te Pae-o-Tuhoe plus 1,528 in Te Manawa-o-Tuhoe, this was not a meeting of the majority of owners. The officials present were the Maori Affairs District Officer and Maori Land Court Registrar, J.E. Cater, who acted as chairman, Patrick, the Deputy Registrar, N. Raerimo, a Maori Affairs Welfare Officer, and Devcich himself in his capacity as Title Improvement Officer.<sup>153</sup>

According to this report, Cater stated that he was 'pleased to see such a large number of owners present'. The District Officer went on to explain that 'the applications before the Court were at the instigation of the Tuhoe Trust Board. The Department was carrying out the mechanics of the proposals'. The purpose of this meeting was to finalise proposals of 'many previous meetings'.<sup>154</sup>

John Rangihau stated firmly that 'our land has been slipping away gradually as shown in Ruatoki and the remedy is to amalgamate'.<sup>155</sup> The proposals for amalgamation for both Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe were passed by general consent, but objections were raised at the meeting. Kanohi Tihema stated:

I can't read or write but understand one thing – I am opposed to Pakeha having anything to do with this. Let the Maori do his own business and asked [sic] John Rangihau to come to the side of the people. Then I will know the job will be right.<sup>156</sup>

Rangihau's attempted rebuttal of this stated that: 'The applications are not Pakehas but ours and it will be controlled by us. They are here to assist'.<sup>157</sup> Rangihau's answer to an objection by Haporona Maki (who was opposed to the amalgamation and had not attended any meetings previously called by the Trust Board) was to ask how many meetings he and 'others like him' had attended and to point out that only a few had

---

<sup>151</sup> Te P. Parata for Registrar to W. Kerekere, 14 November 1973, WMLC Current Files 45-189.

<sup>152</sup> See photocopy and note in WMLC Current Files 45-189 folio 143.

<sup>153</sup> Report of Meeting of Owners held at Ruatoki on Friday November 1973, p. 1, WMLC Current Files 45-199.

<sup>154</sup> Report of Meeting of Owners November 1973.

<sup>155</sup> Report of Meeting of Owners November 1973.

<sup>156</sup> Report of Meeting of Owners November 1973.

<sup>157</sup> Report of Meeting of Owners November 1973.

been present yet they now complained that they were not aware of the proposals to vest the land in the Trust Board.<sup>158</sup>

Concern was expressed by some owners over the use of 1969 valuations instead of more up to date 1973 valuations, especially as some values were 'very low'.<sup>159</sup> Devcich records no discussion of this concern or any answer to it. Hemopo Williams stated, in regard to the Te Pae-o-Tuhoe lands, that 'these lands were bush lands and could be capable of being planted in years to come'. He stressed that 'these lands were their ancestral homes and should not be lightly parted with'.<sup>160</sup> No pine forests were ever established at Te Pae-o-Tuhoe.

Not everyone was able to attend the meeting, despite there being attempts to get notices out to all owners. A letter from Wini Nikora to Cater stated that he found out about the meeting when he went to Te Kuiti 'to do a bit of business' and checked the mail, finding a letter from Cater there notifying him of the meeting. He went on to say that he was

so sorry Mr Cater we didn't received [sic] it earlier otherwise I would of [sic] been to the meeting. Never-the-less I missed it so I would like you to let me know what happened & what the rest of the owners decided with the Blocks, please.<sup>161</sup>

The reason he did not pick the letter up earlier is that he had been living in Otorohanga for three years, not Te Kuiti. He also, tellingly, asked for Cater to let him know what blocks he was in. The only one he knew for certain was Whakatau.<sup>162</sup>

In February 1976, Buddy Nikora met with Deputy Registrar Patrick. Patrick reported that Nikora 'advised that his Steering Committee was virtually at a loss as to how to further proceed in the proposed amalgamation of the Tuhoe Kaaku and Tuhoe Tuawhenua Blocks.'<sup>163</sup> As far as meetings with owners went, Nikora reported that

sufficient meetings organised by the Steering Committee had been held on a number of occasions but he could not see whether all blocks in the proposed amalgamation were represented by owners present. However, the Steering Committee was well aware that there were several owners

---

<sup>158</sup> Report of Meeting of Owners November 1973. The author understands that negotiations between Tama Nikora and Hapurona Maki resulted in Mr Maki supporting the amalgamation. Mr Nikora will give evidence on this matter.

<sup>159</sup> Report of Meeting of Owners November 1973.

<sup>160</sup> Report of Meeting of Owners November 1973.

<sup>161</sup> Wini Nikora to J.E. Cater, 29 November 1973, WMLC Current Files 45-189.

<sup>162</sup> Wini Nikora to J.E. Cater, 29 November 1973, WMLC Current Files 45-189.

<sup>163</sup> P.W. Patrick, File Note, 23 February 1976, WMLC Current Files 45-200 v.1.

who either want part or all of their lands excluded from the proposed amalgamation on the basis that there were buildings on the land or part of the land had been developed and grassed.<sup>164</sup>

Patrick noted that he had told Nikora that it was 'necessary for his Board to formally request that we arrange to hold meetings of owners to consider amalgamation of titles'.<sup>165</sup>

A special sitting of the Maori Land Court was held to hear the Tuhoe Tuawhenua matters in 1979. In June 1979 Patrick, now the Registrar, notified the Court of the dates of a special sitting at Rewarewa Marae in Ruatoki on 14 July 1979, and stated that the place of sitting had been nominated by the Trust Board.<sup>166</sup> Patrick referred to a letter from Whare Biddle in which a meeting of the Trust Board 'asked for all matters related to Tuhoe Tuawhenua to be heard at a special sitting at Ruatahuna'. Buddy Nikora stated that the Board was going to go to the area that weekend. The Court indicated that it was 'content to sit in the place best suited to the purpose and the convenience of the beneficial owners but it must have assistance in determining those points and that means communication/dialogue between owners' representatives and the Trust Board'. The judge also pointed out that it would be happy to have the meetings at Ruatahuna instead of Ruatoki but that would mean moving the sitting to August, and time was pressing.<sup>167</sup>

The Court sitting in 1978 at which the orders were to be given 'exchanging part of Te Manawa-o-Tuhoe block for part of Waiohau B9B (Crown Land)', was advertised in the Daily Post by the Tuhoe Waikaremoana Maori Trust Board. They 'urged' all owners to attend, and noted that a 'general meeting of owners on the foregoing matter will be held at the marae' the night before the sitting.<sup>168</sup>

There were attempts made at this stage to get all owners to attend meetings at which the future of the lands would be discussed. Unfortunately, many of these meetings were to do with proposed exclusions from the amalgamation and, as was pointed out when the Court officials were still operating on the basis of the amalgamation having been finalised, any exclusions required that owners apply for partitions. Later, when confusion about the status of the titles had crept in, the meetings held were to discuss

---

<sup>164</sup> P.W. Patrick, File Note, 23 February 1976, WMLC Current Files 45-200 v.1.

<sup>165</sup> P.W. Patrick, File Note, 23 February 1976, WMLC Current Files 45-200 v.1.

<sup>166</sup> Rotorua MLC MB 193, p. 338

<sup>167</sup> Rotorua MLC MB 193, p. 338

<sup>168</sup> Daily Post clipping, 1978, WMLC Current File 45-189 f. 209

in general terms the approval of amalgamation or to discuss why it was yet to be finalised. There were not the same attempts made later to contact all owners prior to the amalgamation applications being heard by the Court, although Apperley did attend some meetings to encourage Tuhoe into amalgamating their lands.

Notification of owners' meetings and of hearings was clearly of a sporadic and uncertain nature. Although attempts were made to get the notices as widely spread as possible, utilising various forms of media as well as enlisting the assistance of the Trust Board committee members, there were many owners who remained unaware of the amalgamations and the implications they had for their lands.

### ***3.4: Establishment of Trusts***

The amalgamation orders were made on 14 February 1972 and the lands were vested in the Tuhoe Waikaremoana Maori Trust Board with advisory trustees being appointed subject to formal Terms of Trust being heard and ratified. Seven years after the initial amalgamation order had been made in the Maori Land Court, Tuhoe Tuawhenua again came before the Court to have a determination made on the Terms of Trust. The applicant was the Tuhoe Waikaremoana Maori Trust Board, represented by Hingston.<sup>169</sup>

It was at this hearing that Judge Gillanders Scott announced that there had been a systemic mistake made in relation to the status of the amalgamated title. He stated that a 'clear mistake has been made in the Court office in not having removed cancelled orders and substituted amalgamation order etc'<sup>170</sup>. Hingston went on to explain the position of the Tuhoe Waikaremoana Maori Trust Board, which had been chosen as a replacement for the New Zealand Insurance Company. He stated that although the land had been vested in the Trust Board, no trust order had been made. Despite this, it had carried out a trusteeship, fielding complaints from owners regarding poaching among other things, for which they had appointed rangers to control it. They had also been acting in Tuhoe Kaaku, Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe. According to Hingston, the Trust Board had 'called many many

---

<sup>169</sup> Rotorua MB 194, 4 August 1979, f.78.

<sup>170</sup> Rotorua MB 194, 4 August 1979, f.78.

meetings as to land use. Some of you have been at meetings but others apparently not'.<sup>171</sup>

Hingston explained that the board was seeking a limited trust application from the Court in order to get some income for the owners, since they had received applications from owners and other parties for contracts for deer farming. Hingston stated that the board was not requesting the 'right to sell, exchange or subdivide. No finite views as to future use as no expression of view from owners. Bd adopts attitude it is there to help the people - not to take anything away from them'.<sup>172</sup>

Hingston said that the Board understood that the Court had made a mistake 'by not effectuating amalg. in title binders, with resultant deficiency in feed-back to the owners'. The other problem with this lack of finalised orders was that the Trust Board had 'no powers until Court order made'.<sup>173</sup>

Buddy Nikora stated under cross examination that the Trust Board 'was not instrumental in the amalgamation', and further that he thought there had been adequate consultation about the amalgamation proposals.<sup>174</sup>

That there was some bad feeling about the Trust Board's role in the amalgamation on the part of some people was shown in the protest by Mrs Aperahama Matete that 'we owners don't want the M T Bd to see those petitions. Who judges this case the Judge or the Trust Bd?'.<sup>175</sup>

The applications were adjourned but an interim order was made giving the Trust the power to 'use and manage but without power of alienation'.<sup>176</sup>

### ***3.5: Valuations***

The valuation process used in the Urewera amalgamations is explained in summary in the introduction to the Whakatane Minute Book set aside for amalgamation issues, and is worth citing at length:

Subsequent to issue of the [amalgamation] orders dated 14.2.72 an examination of the valuations received from the Valuation Department disclosed that on some of the lands improvements by way of buildings and

---

<sup>171</sup> Rotorua MB 194, 4 August 1979, f.78-9.

<sup>172</sup> Rotorua MB 194, 4 August 1979, f.79.

<sup>173</sup> Rotorua MB 194, 4 August 1979, f.80.

<sup>174</sup> Rotorua MB 194, 4 August 1979, ff.80-81.

<sup>175</sup> Rotorua MB 194, 4 August 1979, f.82.

<sup>176</sup> Rotorua MB 194, 4 August 1979, f.83.

fencing existed. As the buildings were unused and fences were of no value to the land it was decided by the Steering Committee for the owners to depart from using capital values and apply to shares land values only. At the same time objections were received to inclusion of some blocks in the scheme of amalgamation and in other cases of inclusions of areas that were grassed or were subject to leases or tenure approved by the owners. In consequence of this the matter was referred back to the Court for re-hearing. However, the Court did not so order but adjourned the application sine die to be brought on a time convenient the Court [sic].

...current roll valuations as at 1.2.69 applying land values i.e. land clearing and grassing. This basis accepted by the owners at a meeting held 15.4.72....The Valuation Department advised in submitting the valuations that on a general basis the reasons for the different rises on individual properties would be suitability for and proximity to forestry.<sup>177</sup>

In early 1972, Patrick, on behalf of the Registrar of the Maori Land Court, replied to an enquiry from Tama Nikora regarding valuations and the Tuhoe land amalgamations by stating that

At the time the applications were submitted to the Court no valuations of all the blocks concerned were produced. Now that we have had a look at the valuation figures we find that quite a few blocks have substantial improvements comprising dwelling houses etc. Under the circumstances Mr Piki McGarvey is not quite sure whether or not as intended the amalgamation titles should proceed on the basis of capital values.

He advises that in a fortnight's time a meeting of owners and their representatives will be held at Ruatoki and by that time we should have values for all blocks showing the extent of improvements etc. He proposes to discuss at this meeting the question of improvements and whether or not an approach will be made to the Court to partition out areas on which the dwellings etc are located.

In the final analysis we will not be proceeding to amalgamate the titles at this stage until we hear further from Mr McGarvey as to whether the basis of amalgamation has been finalised by his Committee.<sup>178</sup>

Over a year later, in September 1973, the Maori Land Court registrar submitted a request to the District Valuer to confirm that the values of the lands involved in Te Pae-o-Tuhoe were correct.<sup>179</sup> The 1969 values were confirmed accurate in November 1973.<sup>180</sup> At the same date, Devcich submitted a memorandum for consideration by the Maori Land Court. In this, Devcich pointed out that no values were given for the

---

<sup>177</sup> WMLC, Whakatane MB 58, p. 4.

<sup>178</sup> P. W. Patrick, for Registrar, to T.R. Nikora, 18 February 1972, WMLC Current Files 45-200 v. 1, and 45-198 v.1.

<sup>179</sup> Letter from R.J. Emmanuel for Registrar to The District Valuer, 26 September 1973. WMLC Current File 45-199.

<sup>180</sup> C.L. Jones, District Valuer, to The Maori Land Court Registrar, 7 November 1973, WMLC Current File 45-199.

blocks in the Maori Land Court minute book and that it was unclear whether the values were being based on unimproved or capital values.<sup>181</sup> Devcich went on to outline several important points:

7. As there was some doubt as to the values of certain buildings and improvements on some blocks, the Court considered that a rehearing was meet and adjourned three of the Tuhoe applications sine die on 8.8.1972, Whakatane M.B. 52/188-189 but not Te Pae-o-Tuhoe. (Probably an oversight).

8. Valuations: The valuation of the blocks is to be the land value as at 1.2.1969. These figures have been assessed and confirmed by the Valuation Department as at that date. The land value includes all improvements except buildings and fencing.

9. Amalgamation: If the Court and owners agree to the above matters the Court would then be asked to consider amalgamating the blocks mentioned in the schedule attached hereto into one title under the style of "Te Pae-o-Tuhoe".<sup>182</sup>

A further year later, the situation regarding valuations on the Te Pae-o-Tuhoe blocks, and indeed the other amalgamated lands, had still not been resolved. Devcich brought to the attention of the current Deputy Registrar the fact that although the orders for amalgamation of Tuhoe Tuawhenua and Tuhoe Kaakuu were made on 14 February 1972, the 'considerable improvements' on some blocks altered the valuations to the extent that the Deputy Registrar in 1972 had asked for a rehearing of the titles, a rehearing which was adjourned and never followed up. Devcich stated that new roll valuations were expected by the middle of the year and 'it may be desirable to wait until these figures are available rather than work on the 1969 values which are hopelessly out of date'.<sup>183</sup> He pointed out that some owners had expressed 'their concern at 1969 values being used for amalgamations in 1973 at the sitting on 24.11.73'.<sup>184</sup>

The following charts show the variation in valuations for two of the amalgamated titles:<sup>185</sup>

---

<sup>181</sup> Memorandum for Consideration of the Court re Te Pae o Tuhoe Amalgamation, November 1973, WMLC Current Files 45-199.

<sup>182</sup> Memorandum for Consideration of the Court re Te Pae o Tuhoe Amalgamation, November 1973, WMLC Current Files 45-199.

<sup>183</sup> J.V. Devcich to Deputy Registrar, 25 March 1974, WMLC Current Files, 45-200 v.1.

<sup>184</sup> J.V. Devcich to Deputy Registrar, 25 March 1974, WMLC Current Files, 45-200 v.1.

<sup>185</sup> These charts are based on the figures shown in tables 3.3 and 3.8 in the Appendix, and are sourced from WMLC Current File 45-189 Te Manawa-o-Tuhoe, and WMLC Current File 45-199 Te Pae-o-Tuhoe.





Chart 1: Te Pae o Tuhoë Valuation Comparison

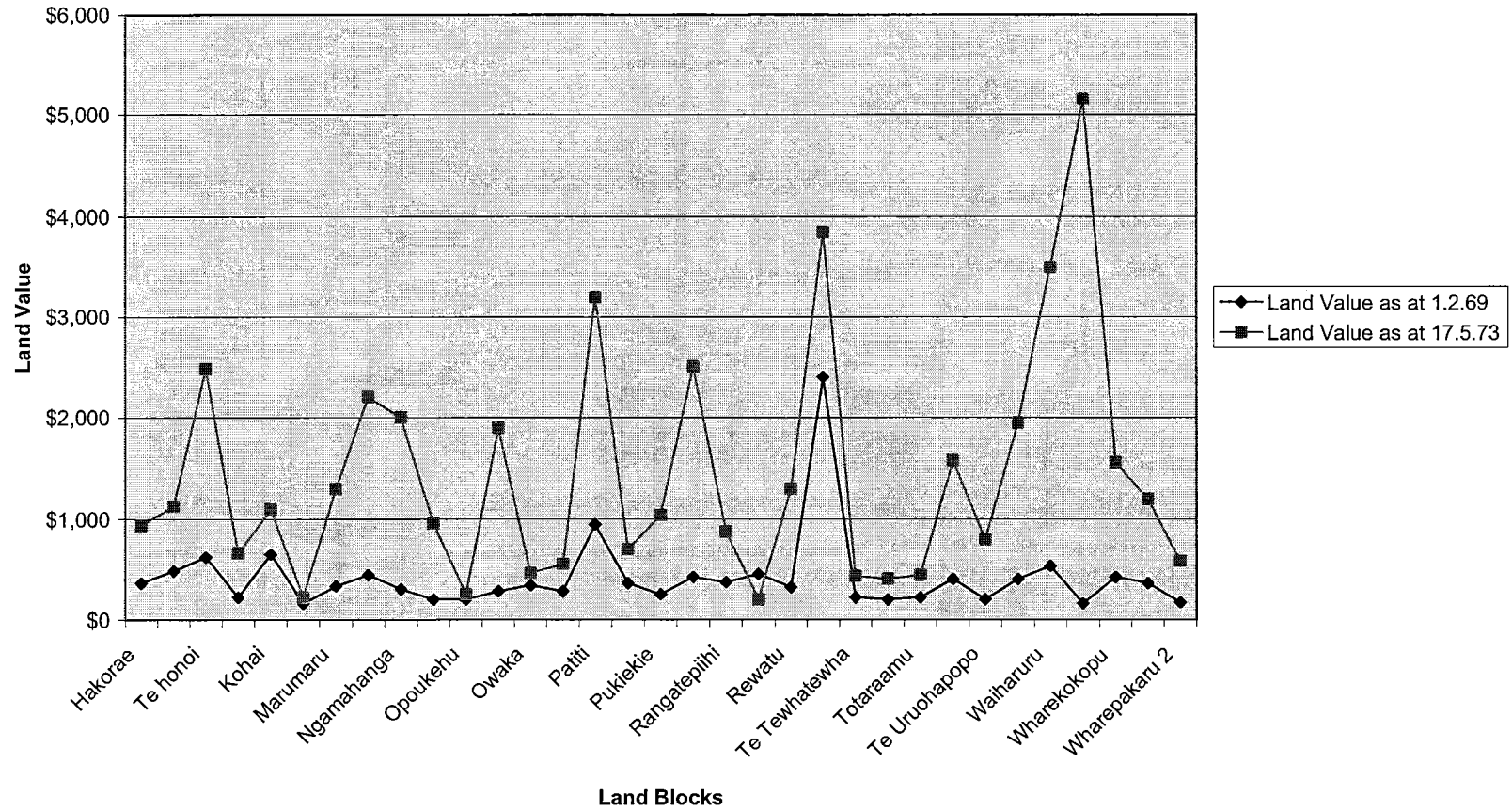
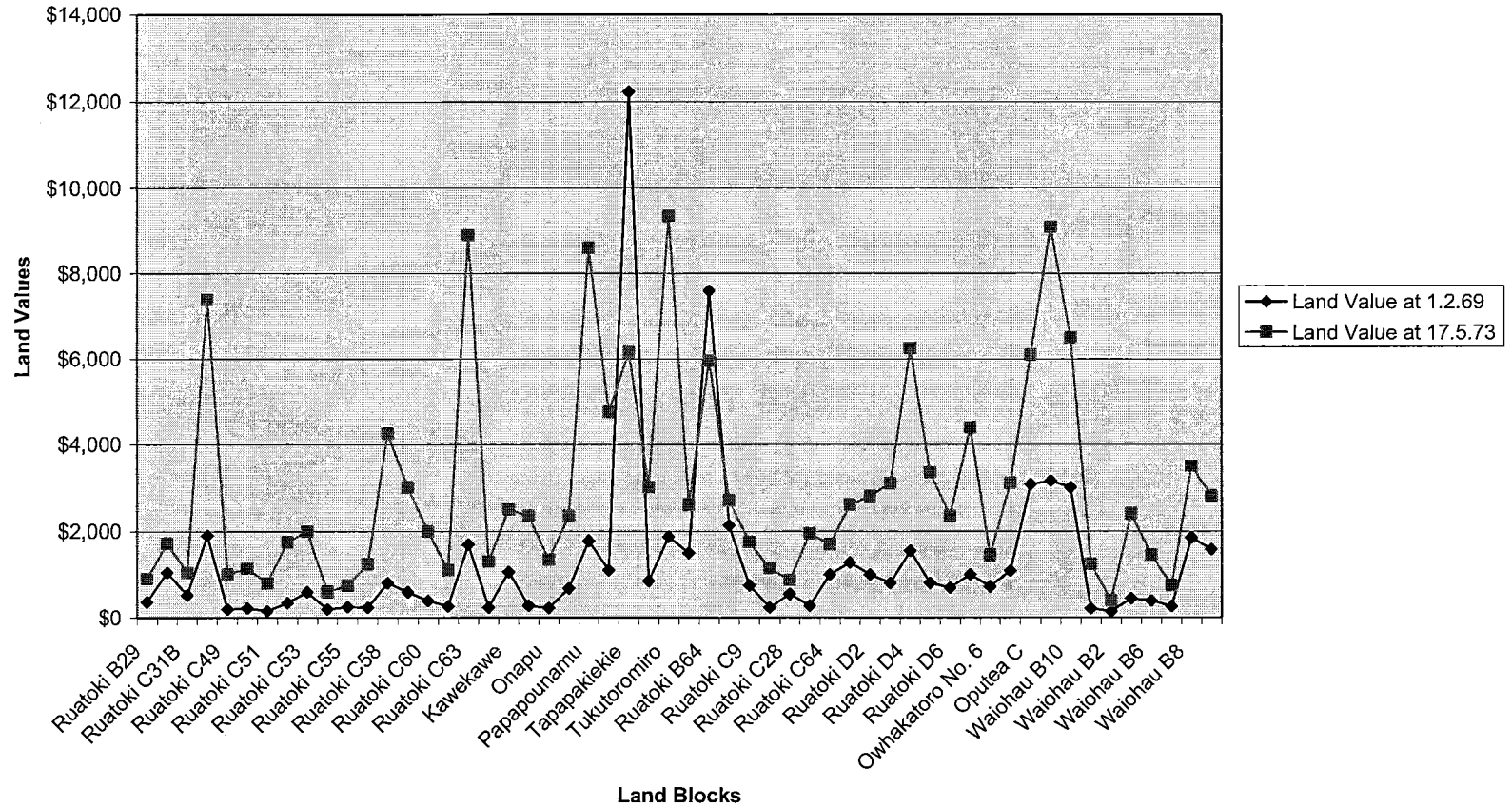




Chart 2 Comparison of Te Manawa o Tuhoe Valuations



Another year later, Devcich asked R.J. Emmanuel of the Maori Land Court to 'prepare schedule of blocks...showing valuations and details of improvements' for Tuhoe Tuawhenua and Tuhoe Kaaku amalgamations. These schedules were to be sent to the Sub-Committee (of the Tuhoe Trust Board) 'and they will consider whether parts of any of the blocks are to be partitioned out where there are considerable improvements such as clearing, grassing, fencing and buildings'. He indicated that some owners wanted whole blocks excluded from the amalgamations, and that this matter, as well as the possible partitions, would be discussed at a meeting of owners after the sub-committee had made its recommendations and before the applications were heard by the Court and final orders produced.<sup>186</sup>

On 10 September 1973, Devcich outlined to the Deputy Registrar why he thought that the valuations of 1969 should not be used for Te Manawa-o-Tuhoe, which was shortly to be the subject of a hearing before the Maori Land Court. Devcich stated that the initial order made in 1970 used the capital values from the rating rolls. The second order, made in February 1972, was based on values that were not shown in the Minute Book. Given that there was 'considerable argument as to whether the capital or unimproved values should be used we obtained details of all improvements on each block from the Valuation Department....the majority had improvements to varying amounts up to \$4,600 in one case.'<sup>187</sup>

Devcich argued that while it would be 'unfair' to use the capital value due to depreciated improvements, it 'would also be quite unfair and inequitable to use the unimproved value as the owners are entitled to get some compensation for clearing and grassing'.<sup>188</sup> Devcich reported that he had discussed this with Piki McGarvey who took it to the Trust Board Steering Committee, which decided that 'the fairest and most equitable values would be land values'.<sup>189</sup> At the request of the Deputy Registrar, Devcich obtained the most recent land valuations from the Valuation Department in May 1973 and proceeded to calculate the shares of the owners on the basis of those land values. Devcich noted that the comparison between the roll

---

<sup>186</sup> Devcich to R.J. Emmanuel, 27 February 1975, WMLC Current Files 45-200 v.1.

<sup>187</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

<sup>188</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

<sup>189</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

valuations of 1969 with the tentative values he obtained in 1973. He stated that the capital value had risen 100 percent in some blocks and up to 700 percent in another. The tables in the Appendices the variation in the values of Te Manawa-o-Tuhoe and Te Pae-o-Tuhoe. Devcich suggested that the high variations seemed to have been a result of 'the increased price that buyers are now prepared to pay for land that is suitable for afforestation as against 1969'.<sup>190</sup>

Devcich noted that the meeting between the District Officer, Deputy Registrar and member of the Tuhoe Trust Board Steering Committee, 'it was decided, amongst other things, that land values would be used for the purpose of amalgamation. I informed the meeting that all the owners' shares had already been calculated on this basis'.<sup>191</sup>

The Title Improvement Officer made the important point that using 'proper up-to-date figures' for the purposes of amalgamation would provide 'fair relativity' between blocks.<sup>192</sup> Conducting special valuations would give the owners 'a fair deal'.<sup>193</sup>

Despite these considerations, a note on the memorandum with what looks to be the signature of J.E. Cater, states that the 1969 values 'will be used', with adjustments made for grassed areas.<sup>194</sup> The note further states: 'Please expedite. This has been backwards and forwards too much'.<sup>195</sup> Apparently the writer of the memorandum did not consider that consultation and discussion were valuable and important aspects of the amalgamation process.

### ***3.6: Issues Arising***

The role of the Maori Land Court was uncertain at this time, but the staff of the Court and some of the judges appear to have taken on responsibility for facilitating the development of land utilisation schemes among Maori. The role of the Title

---

<sup>190</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

<sup>191</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

<sup>192</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

<sup>193</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

<sup>194</sup> Note on J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189, emphasis in original

<sup>195</sup> J.V. Devcich, Title Improvement Officer, to Deputy Registrar, 10 September 1973, WMLC Current Files 45-189.

Improvement Officer was nominally very significant in this respect, but although granted large powers of investigation and recommendation, the primary role of the Title Improvement Officer involved in the Urewera Amalgamations was that of facilitator rather than instigator. Devcich appears at times to have attempted to contact as many people as possible, but at other times he seems to have followed a course of interacting solely with Trust Board officials. It seems clear that regarding the amalgamation process and consultation with owners, it was far easier for the officials of the Court and Maori Affairs department to deal with other officials or iwi representatives as constituted by the Tuhoe Waikaremoana Maori Trust Board Steering Committee. This was bureaucracy in action, where the owners at grass roots level were often left out of decision-making because of convenience or from a lack of effort to contact every owner. The Court and departmental staff seem to have been content to let the Trust Board or Steering Committee take prime responsibility for contacting and consulting the rest of the owners. The legislation granting powers to the Title Improvement Officers did not require in-depth consultation, only what was 'conveniently practicable'. However, there was a moral imperative to ensure that any actions of the Court which impacted on large numbers of people and their lands were discussed thoroughly with those who would be affected.

A number of meetings were held and described as well attended when only a fraction of the total number of owners were present. Much of the difficulty in contacting all owners lay in the dispersed rural nature of Urewera Maori land occupation. Despite this, more meetings at which issues were discussed and explained should have been held in order to guarantee that the amalgamation process and vesting of the land in the Tuhoe Waikaremoana Maori Trust Board were approved of by a clear majority of owners, and that other options available for development of lands were discussed and thought through. There is no guarantee that more meetings would have attracted a majority of owners, but if a greater number of meetings had been held in more areas throughout the rohe it may have been more convenient for more owners to attend

The fact that many owners ended up unaware of the fact that their lands had been amalgamated into these four titles shows that the notification mechanisms of the Maori Land Court left much to be desired. Even with an assumption that the many owners who were not in attendance at the Court hearing were aware of the application, there should have been some provision or requirement for the Court to

then follow up the Court order with a simple letter of notification informing the beneficial owners of the change to the status of their lands, and any provision that would now affect them (such as the power to grant leases).

The establishment of a trust and the vesting of the four amalgamated titles into this trust should have been subject to the same requirements that this report argues should have attended the amalgamation applications. The legislation covering the establishment of trusts granted owners the right to express their opinion on the proposed trustees. In the case of the Urewera amalgamations, it appears that the Court assumed that this approval had been obtained at owners meetings attended by a clear majority of the owners. Whether or not this was the case, there was no effort made by the Court to establish this. It could be argued that the Court was simply taking a step back from its protective paternalism and following through on the expressed views and wishes of owners. Unfortunately, not all owners were present at the Court hearing and the Court therefore could not be following these expressed views since it did not make an effort to find out what they were. As a result, the Court was indeed acting on a paternalistic attitude of knowing what was best by agreeing that amalgamation was the way forward for the Urewera lands without knowing if it was a course approved of by a majority of owners.

There was not a great deal of facility given to trusts to enable them to perform their duties and responsibilities in a thorough manner. The trustees were expected to both retain the land for the people and to utilise it to obtain the best possible economic return. Without substantial capital, and with the lack of certainty surrounding the titles (covered in the following chapter), it was difficult for the trust to properly administer the lands.

The process whereby the valuations of the interests in these lands were obtained and decided on was also flawed. Values from 1969 were used, contrary both to the expressed desires of owners who believed that a fairer valuation would be obtained from a more recent estimation and also to the arguments of Devcich, who agreed that a more just and representative value could be obtained by using the land value not the unimproved or improved values. The fact that previous valuations had been largely carried out with forestry in mind meant that the final figures were skewed in terms of the land's relative suitability for afforestation, not a straight valuation.

The ineptitude of the Maori Land Court staff was not restricted to a lack of consultation with owners or the debate about what valuations should be used, but a more serious and fundamental error whereby the orders made in 1972 creating Tuhoe Tuawhenua, Tuhoe Kaaku, Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe were not carried out by staff, giving rise to a high level of confusion and significant problems with land utilisation. This is the subject of the next chapter.



## Chapter Four: Confusion over Title Status

One of the unfortunate aspects of the history of amalgamation in the Urewera is the extent to which a state of confusion as to the status of the titles to the four amalgamated blocks was allowed to arise and continue for seven years until it came to a head in 1979. The Royal Commission on the Maori Land Courts, in its report published in 1980, lays bare the endemic problems which meant that this situation could occur and some of its findings are discussed in this chapter. Following discussion of exactly how this confused state came into being, is a discussion of the consequences of this confusion on the administration of the lands and on individuals concerned. The chapter then looks at what steps were taken by Court staff to rectify the situation.

### *4.1: How Confusion Arose*

The reason for confusion lay with a verbal application by the then senior court clerk and later Registrar, P.W. Patrick, for a rehearing on the grounds that the valuation figures were not finalised and there was disagreement about which valuation should be used. This 'application' for rehearing was adjourned sine die by Judge Gillanders Scott, and was not resumed at any point. The question of valuations, however, was addressed (as seen in the previous chapter). Unfortunately, somehow Court staff gained the impression that it was the hearing for the amalgamation application that had been adjourned and that the amalgamation orders had not been finalised, when in fact they had. Because of this, they did not remove old titles from their binders which meant that they continued to all intents and purposes as active titles on which partitions and leases could be made.

An extremely important point was made by the Gillanders Scott, when he stated that:

The "Tuhoe Grievances" have concerned not only the Maori Land Court, but the very Government itself for decades past. Much of the misunderstandings and resultant hurts may very well be attributed to a failure in communication, dialogue and disclosure of every facet of dealings with or concerning land.<sup>196</sup>

---

<sup>196</sup> Whakatane MB 58, 20 February 1974, folio 74.

This failure of communication was one of the facets picked up in the Royal Commission of Inquiry into the Maori Land Courts.

#### **4.1.1: Royal Commission of Inquiry into the Maori Land Courts:**

Chapter Nine of the report of the Royal Commission on the Maori Land Courts is of particular importance to this report. It deals with 'How well has the Court performed its functions?'.<sup>197</sup> In that chapter the commissioners traverse the inefficiency and ineptitude of some of the staff of the Maori Land Courts, and the implications of this for the standards of the Court. The Commission quotes from the submission of Judge E.T.J. Durie, regarding inadequacies of service he received from Maori Land Court staff:

The Court staff in both Aotea and Waiariki registries are no longer able to process applications promptly, efficiently, or correctly.

(i) applications are not checked and processed upon receipt but are left over, sometimes until just before the sittings, at others for so long that they become forgotten....

(ii) applications are sometimes not checked at all.

.....

(v) there is insufficient follow up after hearings. Applications on which decisions are reserved are sometimes not referred back to the judge...Directions go unactioned. Sometimes applications are left over for a year, or for several years even despite the earnest please of counsel.

(vi) there may be delays in recording decisions. The most usual reason is that certain directions (for further title particulars and the like) have not been actioned by Court staff....

Proper title records are not kept and there are too many errors....In the Land Registry Office, memorials would be recorded under the hand of an assistant land registrar. In the Maori Land Court they are entered by insufficiently trained and junior staff. Sometimes wrong particulars appear on the wrong titles and in the wrong form.<sup>198</sup>

Chief Judge Gillanders Scott agreed with Durie and was also 'highly critical of the servicing of the Courts'.<sup>199</sup> The New Zealand Law Society referred to applicants and their counsel being put out by the delays in forthcoming decisions.<sup>200</sup>

---

<sup>197</sup> 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 56.

<sup>198</sup> Submission of E.T.J Durie, cited in 'The Maori Land Courts: Report of the Royal Commission of Inquiry', AJHR, 1980, H-3, p. 57.

<sup>199</sup> Report of the Royal Commission of Inquiry, p. 57.

<sup>200</sup> Report of the Royal Commission of Inquiry, p. 58.

The commission also referred to the nature of the role of the Judge and the Court and how it had changed to where 'some judges see their primary role as initiating land use schemes for the benefit of the Maori land owners, rather than hearing and determining the applications brought before them'.<sup>201</sup> The commission agreed that:

New developments in land utilisation have unquestionably introduced new complications into the work of the Court. To achieve the best use of multiply-owned land there must be consideration by the owners, negotiations with interested parties, evolution of patterns of administration, and a full searching investigation by the Court to ensure that the owners appreciate the implications, and that the final arrangement is in a form acceptable to the majority.<sup>202</sup>

The commission concluded this chapter with the opinion that 'The Court has generally done its work well, in spite of difficulties'. They believed that judges had 'striven to administer the law in sympathy with Maori aspirations'. Unfortunately, the inadequacies of administrative service to the Courts meant that Maori 'have often been forced to suffer frustrations, delays, and inconvenience'.<sup>203</sup>

It is worth noting that it was not only the Maori Land Court which had had difficulties with administration of Maori lands. The report of the Commission noted when discussing the fragmentation of Maori interests in land, that this had an impact on the administration of the lands by the Trust Department of the New Zealand Insurance Co. Ltd (in whom some lands had been vested in 1969). The report stated that fragmentation

brought about intolerable problems for the department in keeping ownership lists up to date, in distributing smaller and smaller dividends from leasehold land to individual owners, and in arranging meetings of owners in an attempt to organise land-use schemes.<sup>204</sup>

The administrative failures of the Maori Land Court in regards to Tuhoe Tuawhenua was what spurred the High Court hearing relating to this block, and the correspondence between Court and Maori Affairs officials illuminates the extent to which the delays and frustrations were due to inadequate service and mistakes springing from misunderstandings or lack of attention.

---

<sup>201</sup> Report of the Royal Commission of Inquiry, p. 59.

<sup>202</sup> Report of the Royal Commission of Inquiry, p. 59.

<sup>203</sup> Report of the Royal Commission of Inquiry, pp. 59-60.

<sup>204</sup> Report of the Royal Commission of Inquiry, p. 31.

#### *4.2: Consequences of Confusion over Titles*

The exchange of lands with the Crown for forestry land was held up by objections from owners but also by the confusion over the titles. A letter from Devcich to McGarvey dated 19 June 1973, outlines a meeting Devcich had with Matt Wilson, a surveyor, and Jim Canning of the New Zealand Forestry Service regarding the amalgamation of Manawa-o-Tuhoe. Canning explained that he had sent plans showing the proposed exchange of lands to Briffault of the Department of Lands and Survey. While in the meeting, Briffault contacted them by telephone to inform them that 'the Minister directed that no further action be taken on the proposed exchanges on the Manawa-o-Tuhoe lands with Crown lands'.<sup>205</sup> Devcich went on to say:

After discussing the matter with Mr McGarvey, it appears that there may have been some misunderstanding between the request which apparently came from the Trustees of the Tuhoe lands made to the Minister recently and that the Minister may have been confused on the issue. I mentioned this aspect to Mr Paraone Reweti, M.P., whilst in the office yesterday, and he will discuss the matter with the Minister on his return to Wellington to try and get the matter clarified.

...Mr Briffault said that he thought the Board [of Maori Affairs] submission in calling for meetings of owners in several blocks before the amalgamation took place was not correct and that he felt it should be amended. His understanding of the matter was that all blocks would be amalgamated first and then the trustees would negotiate the exchange of part of the new amalgamated block for Crown land. This would certainly be a much simpler solution to the problem.<sup>206</sup>

It is unclear whether they are referring to the amalgamation and separation of those lands designated for the Crown or the whole of the amalgamated block but this highlights a significant point –the fact that the amalgamation had already taken place but that this seemed to be unknown to those involved.

Patrick, wrote to Briffault regarding these assumptions on 27 June 1973. He stated that they had received Board of Maori Affairs approval for owners' meetings to consider the exchange of Maori and Crown lands under proposal. Patrick further stated:

Recently you were in conversation with Mr Devcich and implied that the application was out of order as the exchange was to be effected when the

---

<sup>205</sup> J.V. Devcich, Title Improvement Officer, to P. McGarvey, 19 June 1973, WMLC Current Files, 45-189.

<sup>206</sup> J.V. Devcich, Title Improvement Officer, to P. McGarvey, 19 June 1973, WMLC Current Files, 45-189.

Maori titles had been amalgamated. You will recall that the Court on 14 February 1972 did make an order amalgamating the blocks concerned and at the present time we are in the process of completing the data for this amalgamation. In the meantime however, we have received strong objection from the major owner of Oputea B2 Block and it has been necessary to leave out certain portions yet to be defined of the Ngautoko, Puketapu and Poutere Blocks. When the areas have been defined, it will then be necessary to obtain valuations for the areas of the lands remaining in the amalgamation.<sup>207</sup>

A file note of the same date outlined the progress made so far in the Manawa-o-Tuhoe amalgamation. Patrick noted that details of valuations for all lands in the amalgamation had been obtained and 'values apportioned to owners in all blocks' except three blocks from which certain areas would be excluded, namely Ngautoko, Puketapu and Poutere. Patrick stated that 'Mr McGarvey and Mr Devcich with member of Survey Staff from Department of Lands and Survey to inspect and decide such areas'.<sup>208</sup>

Patrick argued that the exchanges of lands with the Crown 'should not affect in any way the foregoing proposals'. This was because of four reasons. Firstly the amalgamation order *had been made a year before* 'and should be effectuated as soon as possible'. Secondly, there was pressure from 'The Tuhoe Trust Board (through Messrs McGarvey and Rangihau)' for the amalgamations to be completed. Thirdly, the Trust Board had already made arrangements with Caxton to lease the lands in the amalgamated title for Manawa-o-Tuhoe for forestry. Finally:

There is nothing to prevent the Crown after the titles have been amalgamated to have part of the land released from the lease in order that exchanges can be effected. The Crown in any case is only interested in the country adjoining the Urewera National Park Reserve which would be unsuitable for planting.<sup>209</sup>

In mid November 1973 another block where the owner did not want to be part of the amalgamation came to light, Kawekawe Block. Piki McGarvey wrote to the Deputy Registrar and informed him that while in Ruatoki he was

approached by Tu Tumoana....he asked that the front portion of this land comprising about 12 acres be excluded from the amalgamation as it was

---

<sup>207</sup> P.W. Patrick, Deputy Registrar, to Mr. Briffault, Department of Lands and Survey, 27 June 1973, WMLC Current Files 45-189.

<sup>208</sup> P.W. Patrick, Deputy Registrar, File Note 27 June 1973, WMLC Current Files 45-189.

<sup>209</sup> P.W. Patrick, Deputy Registrar, File Note 27 June 1973, WMLC Current Files 45-189.

suitable for grazing horses and the odd cows. I told Tumoana that I would pass this request on to our Court Section.<sup>210</sup>

Devcich, for the Registrar, wrote to the Deputy Registrar in September regarding the status of Ruatoki C9 which had been incorporated in the amalgamation of Te Manawa-o-Tuhoe. This land had been leased by all five of the owners in September 1970, and 'there is no evidence on this file that the owners have been advised that arrangements to lease have not continued or that their land is to be included in the amalgamation for afforestation'. He stated that 'If there was no intention to proceed with the lease, the owners should have been advised accordingly. ...Furthermore, I consider they should now be advised that it is *proposed including their land in the amalgamation* for afforestation and their approval sought.'<sup>211</sup> It is worth noting that at this point, writing for the registrar, Devcich appears to be working in a dual capacity for Maori Affairs and for the Maori Land Court.

Confusion over titles did not just mean that people who did not want to be in the amalgamation discovered that they were, but that lands that were supposed to be in the amalgamation were then dealt with as individual blocks by the Court, leading to confusion. John Rainford and Co, surveyors and land development consultants, wrote on behalf of Sonny Biddle and his land at Omaruwharekura A1. They were investigating a subdivision of the land and wanted to know if it was still listed as Maori Land and thus if they would need to gain Court approval of any proposed subdivision.<sup>212</sup>

The Deputy Registrar referred the matter in 1985 to Judge Hingston (formerly counsel for Tuhoe Waikaremoana Maori Trust Board) for his directions, since there was a problem. The problem was that

Omaruwharekura A1 "technically" is still part of Tuhoe Kaaku block, although since amalgamation the block has been partitioned and a Certificate of Title CT 21D/294 has issued and the block is subject to a mortgage in favour of HM the Queen and a family benefit charge.

---

<sup>210</sup> P.P. McGarvey to Deputy Registrar, 19 November 1973, WMLC Current Files, 45-189. As previously noted, the situation with Tumoana was apparently settled out of court, and Tama Nikora will offer evidence on this matter.

<sup>211</sup> J.V. Devcich, for Registrar, to Deputy Registrar, 7 September 1973, WMLC Current Files 45-189. Emphasis added.

<sup>212</sup>

It appears that the P/O [partition order] of 24.4.75 is an nullity and may have been made per incurion. If this is the case how do we overcome the problem with the Certificate of Title and the mortgages.<sup>213</sup>

The answering letter from Hunt to John Rainford and Co was not very satisfactory. Hunt stated that the Partition Order was a nullity as the parent title had already by this stage been incorporated into the amalgamated Tuhoe Kaaku block. Hunt assured the Surveyors company that

We are at present looking into ways the situation can be rectified but in any case nothing can be done until the rehearing granted 16.4.85 which is still extant the Court proceeds. We can give you no indication at this stage as to when this is likely to happen. However, we will keep you informed as to progress.<sup>214</sup>

Joey Biddle's stake in Omaruwharekura A2 was also confusing to him, and he employed lawyers from the firm of Osborne Handley Gray and Richardson to discover what had happened in the amalgamation. The letter from the lawyers requesting information states that 'our client is at a loss as to what has happened in respect of the amalgamation and we think that if we could look at the file with him we would be able to explain the matter'.<sup>215</sup>

Complaints were received from owners regarding the amalgamation of their lands into the Tuhoe Tuawhenua block. Wiri Wahanui wrote to the Minister of Maori Affairs in October 1974 requesting information regarding two blocks in which he held interests, Te Huia and Kopuhaia. The Registrar, J.E. Cater, informed the Minister that these two blocks formed part of the Tuhoe Tuawhenua amalgamation which had been vested in the Tuhoe Waikaremoana Maori Trust Board. He then perpetuated the error that the applications had been adjourned, stating that:

On 8 March 1872 the Court on an application for rehearing then adjourned the application sine die in order to resolve the question of improvements on some lands and also extent of areas in some blocks to be excluded from the amalgamation.

---

<sup>213</sup> P.R. Hunt, Deputy Registrar, to Judge Hingston, 5 December 1985, WMLC Current Files, 45-200 v.1.

<sup>214</sup> P.R. Hunt, Deputy Registrar, to John Rainford & Co, Registered Surveyors, 8 December 1985, WMLC Current Files 45-200 v.1.

<sup>215</sup> Osborne Handley Gray & Richardson to The Registrar Maori Land Court 16 April 1984, WMLC Current Files 45-200 v.1

In effect, no final orders under sections 435 and 438 have yet issued and it will be necessary to call a meeting of owners to iron out the points referred to above before the application is placed before the Court.<sup>216</sup>

A handwritten note added in March 1984 states that this was 'not so – the rehearing applcn was adjourned 435 order stands'.<sup>217</sup>

The major problem with this mistake was that it passed the misconception on to owners that they could still get their lands excluded from the amalgamation. Cater also informed the Minister of Maori Affairs that

At the meeting to be called, Mr Wahanui will have the opportunity of presenting his family's case for the two blocks to be excluded from the proposed amalgamation and as they own substantial interests there would be little opposition to their request.<sup>218</sup>

The fact that Cater, as Registrar, was referring to an already made order as a 'proposed' amalgamation, is indicative of the level of confusion surrounding these titles.

Cater also informed the Minister as to the meeting referred to in Wahanui's letter. This was a meeting of owners called by the Trust Board and held on 24 September 1974. The purpose of the meeting was to discuss 'future utilisation' of Tuhoe Tuawhenua. Cater stated that 'discussions covered the extent of areas to be retained for farm development, areas for leasing to the Crown, and afforestation'. He pointed out that the meeting 'served to give the Board a general idea of the owners' reactions to their proposals', but admitted that with 'only about 50 out of approximately 1,800 owners in the block [being] present', the board was not able to get such a 'general' indication of attitudes to their plans. Because of this, according to Cater, the Trust Board was of the agreement that the problems surrounding the titles and the desired exclusions by some owners would have to wait until the more general meeting which would be called by the Registrar to discuss matters concerning both Tuhoe Tuawhenua and Tuhoe Kaaku.<sup>219</sup>

---

<sup>216</sup> J.E. Cater, reply to Ministerial Enquiry 1974/803 – Mr Wahanui, 15 October 1974, WMLC Current Files 45-198 v.1.

<sup>217</sup> Note on J.E. Cater, reply to Ministerial Enquiry 1974/803 – Mr Wahanui, 15 October 1974, WMLC Current Files 45-198 v.1.

<sup>218</sup> J.E. Cater, reply to Ministerial Enquiry 1974/803 – Mr Wahanui, 15 October 1974, WMLC Current Files 45-198 v.1.

<sup>219</sup> J.E. Cater, reply to Ministerial Enquiry 1974/803 – Mr Wahanui, 15 October 1974, WMLC Current Files 45-198 v.1.



Matiu Rata, then Minister of Maori Affairs, then passed on this information to Wahanui, informing him that

At the Registrar's meeting I am assured that you and your family will be given the opportunity to present your case and express any objections to the amalgamation proposals affecting your land interests. Should it be necessary, you will have a further opportunity at the sitting of the Court which will follow, to again place your case for exclusion of your lands from any order of the Court.

Apparently, some lands, for family reasons, have been excluded in other amalgamations of Tuhoe blocks and there is no reason to believe why the same consideration should not be afforded in respect of your interests provided, of course, that you are able to substantiate on good grounds your reasons for exclusion.<sup>220</sup>

It is most unfortunate that a situation had arisen where owners were receiving assurance from the Minister of Maori Affairs that they still had options regarding orders which had been made in the Court two years previously.

#### ***4.3: Resolution of Confusion***

1 November 1979, Gillanders Scott wrote to Patrick, and informed him that:

I regret doing this but I am left with no alternative but to place on record in writing to you my firm view that it is most unwise of you not to advise both the Secretary and the Chief Registrar formally of the failure on the part of the Court staff to action the court orders made in December 1972; a consequence of such failure being that some of the individual titles amalgamated in December 1972 were thereafter treated as being held under their former respective single title orders and succession orders.<sup>221</sup>

Scott noted that he had only been made aware of the lack of finalised orders for Tuhoe Tuawhenua 48 hours before the last sitting of the Court related to those blocks, and then at the sitting on 4 August 1979 he 'disclosed the position in open Court though at that stage the full gravity of the position was not then known.'<sup>222</sup> He stated that this position was becoming 'graver and graver' as the Deputy Registrar worked through the titles for both Tuhoe Tuawhenua and Tuhoe Kaaku and discovered that 'a "housing" security is caught up with the mess'.<sup>223</sup> Rather presciently, Gillanders Scott remarked that

---

<sup>220</sup> Matiu Rata, Minister of Maori Affairs, to Wiri Wahanui, 30 October 1974, WMLC Current Files, 45-198 v.1.

<sup>221</sup> K. Gillanders Scott, Chief Judge, to Mr Registrar Patrick, 1 November 1979, WMLC Current Files, 45-198, v.1.

<sup>222</sup> Scott to Patrick, 1 November 1979.

<sup>223</sup> Scott to Patrick, 1 November 1979.

As things stand at the present moment all concerned are sitting ducks if any one owner chose to launch a proceeding in the Supreme Court for a declaration as to the validity of a particular order or alienation.<sup>224</sup>

This matter did go before the High Court on the application of some of the owners, and these proceedings are discussed in Chapter Five.

In June 1984, an internal file note noted that Piki McGarvey and Tahi Tait had informed the staff of the Maori Land Court that the Tuhoe Waikaremoana Maori Trust Board was 'anxious to reach some finality on the amalgamation' of Tuhoe Kaaku.

They asked and I agreed to carry out research on the case and then, as soon as conveniently possible, to convene a meeting of Trust Board representatives (Messrs Tait, McGarvey and Nikora) and Mr Hingston to discuss and arrive at solutions to the following problems:

ownership of private homes that are on part of the trust property

the granting of occupation rights to owners or families of owners who have farmed parts of the trust property for years

the preparation of a list of owners for the amalgamated titles.<sup>225</sup>

The position as at 1 August 1984 was set out as follows by C Matangi, the Deputy Registrar:

A re-hearing of the application is deemed meet and stands adjourned. Judge Smith's opinion is that he is competent to revive the appln for re-hearing but thinks it inappropriate to do so while the case before the High Court is unresolved. Judge Smith's initial reaction was that the amalgamation be cancelled so that the whole thing could be re-considered. That however, would be contrary to the wishes of the Board because if the amalgamation was cancelled, there would be opposition to a fresh amalgamation.

Hearing in High Court for Tuhoe-Tuawhenua is now set down for September 13<sup>th</sup> or 18<sup>th</sup>. Attempts will be made by Mr Joyce to persuade the appellants to have the case resolved in the Maori Land Court rather than the High Court. If this eventuates Judge Smith will bring on for hearing applns for re-hearings in respect of both Tuhoe Tuawhenua and Tuhoe Kaaku.<sup>226</sup>

It is unclear if the Deputy Registrar is speaking of the Trust Board or some other board, perhaps the Board of Maori Affairs. Given that representatives of the Trust Board had been in discussion with Land Court staff, it seems fair to assume that the memorandum refers to the Trust Board.

---

<sup>224</sup> Scott to Patrick, 1 November 1979.

<sup>225</sup> Internal File Note, June 1984, WMLC Current Files 45-200 v.1.

#### ***4.4: Issues Arising***

The main cause of the confusion surrounding the amalgamated titles of Tuhoe Tuawhenua, Tuhoe Kaaku, Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe, was the initial error made by Court staff in not properly filing and otherwise dealing with the section 435 order made by the Court on 14 February 1972, amalgamating the titles of 160 different blocks. The adjournment of the application for rehearing, which application was made as a result of insufficient valuations being available, added to the confusion as this, in the face of no obvious orders being available, was transmuted into meaning that the application for amalgamation had been adjourned.

The confusion which arose was compounded by the fact that owners had not been properly notified or consulted. Consequently, many people were, firstly, unaware that an application for amalgamation had taken place and, secondly, that this amalgamation had then taken place. This led to owners writing to the Courts and Maori Affairs staff with enquiries regarding the status of their lands. More of these queries are covered in the following chapter. Co-operation between the Courts and the owners was necessary to resolve the problems surrounding the uncertain state of the amalgamated titles.

The consequences of this confusion were many. Primarily and very significantly, it meant that other orders (such as partitions) continued to be made on the blocks that had now been amalgamated, thus making the previous titles redundant. As the titles had not been removed from the binders, this was not clear to already misled staff, and so inappropriate orders were made and carried out. This made the efforts at resolution so much more difficult later on since the question of whether or not it was fair to effectively wipe out the last few years of orders on a block had to be dealt with.

Another obstruction arising from the confused state of the titles was the ineffectiveness of the administrative body, the Tuhoe Waikaremoana Maori Trust Board. Without a clear notion that the orders amalgamating the lands had been finalised, it was not possible for a trust order to be finalised, and this meant that the Trust Board was left ineffectual when asked for assistance or guidance by owners. Trust Board decisions also required certainty of titles, which was not evident in the state of affairs arising from erroneous beliefs about the status of the titles.

---

<sup>226</sup> Internal File Note, 1 August 1984, WMLC Current Files 45-200 v.1.

Another very serious consequence of the title confusion was that some owners who had recently discovered that their lands were subject to amalgamation were informed that the amalgamation process had not been finalised and that they would have a chance to exclude their lands from the proposed title scheme. This was inaccurate and it was deeply unfortunate that such a misbelief was disseminated in this way.

When finalisation or certainty were requested by owners, either as represented by the Trust Board or as individuals, the Court staff attempted to resolve the situation but because of their own mistaken assumptions regarding title status, the matter was continually referred either back to the Trust Board to deal with (by getting them to discuss with owners how their lands could be excluded from the proposed amalgamations) , or they were informed that it was a matter for the Court and would be dealt with as soon as possible, and that they would be informed when it came before the Court to be finalised.

The matter was not fully resolved until the High Court hearing of Tuhoe Tuawhenua in 1984, and this is dealt with, along with other protests and appeals, in the following chapter.

## Chapter Five: Protests and Appeals by Owners

Given that the extent of consultation with owners had not been scrupulously monitored by officials involved in the amalgamation process, and given the wide ranging confusion about the status of the amalgamated titles, it is not surprising that many letters of inquiry and concern from owners were sent to the Maori Land Court and the Maori Affairs Department. This chapter outlines some of the types of complaints and questions fielded by officials as well as looking at more formal types of protest as shown in the Maori Land Court rehearing of Tuhoe Kaaku and the High Court proceedings held to investigate the original orders relating to Tuhoe Tuawhenua. It should be noted, however, that a complaint from one owner in a block is not necessarily representative of the feelings of all owners in that block.

### *5.1: Letters from Owners*

Following a meeting of owners in November 1973, several letters were received by the Maori Land Court regarding a lack of notification of the meeting. Ron Rawhiti did not receive notification, and wrote to request the registrar to look into the status of his shares in Manawa Otuhoe, of which there were 3836.<sup>227</sup> Te P. Parata, replying for the Registrar, informed Rawhiti that they were 'unable to trace you either as Te Taite Rawhiti or Ron Rawhiti', and suggested that the shares could be under another name if he had one or still under a parent's name.<sup>228</sup>

Piki McGarvey wrote to Devcich in May 1973 to inform him of the situation regarding three blocks excluded from the amalgamation of Te Manawa-o-Tuhoe.<sup>229</sup> Even at this early stage there were objections to incorporating certain areas of land. Devcich, writing on behalf of the Registrar, replied to an enquiry from Mrs A Pickering about her land at Oputea B2. He stated that

With reference to your letter of 28 May I have noted your strong opposition to the amalgamation of the above block with the other blocks to make up the new amalgamated title to Te Manawa-o-Tuhoe. Your letter has been referred to the Tuhoe Waikaremoana Planning Committee for their consideration....

---

<sup>227</sup> Ron Rawhiti, also known as Te Taite Rawhiti to the Registrar, 27 November 1973, WMLC Current Files 45-189.

<sup>228</sup> Te P. Parata, For Registrar, to Te Taite Rawhiti, 10 December 1973, WMLC Current Files 45-189.

<sup>229</sup> P. McGarvey, Development, to J. Devcich, 18 May 1973, WMLC Current Files 45-189, f. 31.

I shall send you any notices should any meetings of owners be called in respect of Oputea B2 and also when the Court sits again to consider the amalgamation.<sup>230</sup>

Objections like these led to some delays and some confusion. Devcich wrote to Piki McGarvey (at that time John Rangihau's successor as District Welfare Officer) to inform him that Mrs Pickering, who owned 8016 shares out of a total of 26720 in Oputea B2 was against that block being incorporated into the amalgamated titles, and that 'as it is quite possible that other owners would also oppose this block being included in the amalgamation', he recommended that Oputea B2 be 'withdrawn' from the amalgamation process, and asked for McGarvey's views.<sup>231</sup>

A letter to the Secretary of the Tuhoe Waikaremoana Trust Board, Buddy Nikora, informed him that two owners, Frank Vercoe and Tumoana Tumoana, had raised the issue of the partitions of the grass areas of Ruatoki B72 and Kawekawe;

they said that the Steering Committee gave them to understand that the grass areas would not be included in the amalgamation and are now disturbed to find that the grassed areas in these two blocks are included for afforestation.<sup>232</sup>

Devcich stated that

These matters should have been raised at the meeting of owners held on Friday night 23 November, or before the Court concluded the hearing on Saturday morning when the owners were asked if they had anything further to say or any objections to the proposals...

The Court has made an amalgamation order under section 435 and vesting orders under section 438 on 4 December [1873] and if your Board considers that any part of the above proposals [for partition and exclusion] should be implemented, then your Board should call and discuss the matter with the District Officer with a view to having the existing orders amended. To do this, it would be necessary to lodge an application with the Court for a rehearing and the application would have to be lodged within 28 days from 4 December 1973 [the date the orders were made].<sup>233</sup>

These two were not the only ones still making objections after the Court had made its decision. Mrs L.M.M Nicholas wrote to the Title Improvement Officer to ask about the status of her land. She wrote:

---

<sup>230</sup> J.V. Devcich (for Registrar) to Mrs A.R. Pickering, 8 June 1973, WMLC Current Files, 45-189.

<sup>231</sup> J.V. Devcich, Title Improvement Officer, to P. McGarvey, 7 June 1973, WMLC Current Files, 45-189.

<sup>232</sup> J.V. Devcich, for Registrar, to T.B. Nikora Secretary of Tuhoe-Waikaremoana Maori Trust Board, WMLC Current Files, 45-189.

<sup>233</sup> J.V. Devcich, for Registrar, to T.B. Nikora Secretary of Tuhoe-Waikaremoana Maori Trust Board, WMLC Current Files, 45-189.

I heard only to-day that a meeting was held in Ruatoki to discuss the Amalgamation of lands with a view to getting vesting in the Tuhoe Trust Boards of those areas now unoccupied.

I am an owner in the Papapounamu Block. Could you kindly advise me if this block is included in the scheme. And if it is what rights I will have as far as the land is concerned, or will I cease being an owner altogether.

Also what is the Tuhoe Trust Board going to do with the land. Will I benefit [sic] in any way.<sup>234</sup>

The reply was sent out 13 days later. The Registrar (per R.J. Emmanuel) confirmed that meetings were held at which the amalgamations were discussed, and that following these meetings the Court issued orders amalgamating Papapounamu and 57 other blocks into Te Manawa-o-Tuhoe. Emmanuel explained that her shares in Papapounamu, 'including the shares you recently bought from the Maori Trustee' were now located in the amalgamated title. Her shares were thus now a total of 44.62 out of a larger total of 47275 shares in the new 21148 acre block. He also explained that

The Court has vested the land in the Tuhoe Waikaremoana Maori Trust Board who are to negotiate on behalf of the owners, the leasing of the block for forestry purposes. You retain your ownership in the new title but your shares are no longer specifically located in that part of the block which was formerly Papapounamu.

The benefits will be that you will eventually receive rent in proportion to your shareholding and know that idle land is being put to good use, while at the same time retaining the right to dispose of your shares by sale or gift to other owners.<sup>235</sup>

It is telling that he was saying that her only rights were to alienate her shares – she had no rights to have her shares formed into a section of land which she could farm or lease or otherwise control. This is also highlighted in a letter sent to Nicholas in March 1974 as a response to a request to the Maori Trustee to sell her some shares. Devcich advised that 'the Maori Trustee declines to sell his shares in Te Manawa-o-Tuhoe Block to you. These shares, however, will be sold to the Tuhoe Waikaremoana Maori Trust Board who will purchase on behalf of all the owners'.<sup>236</sup> It is not clear if the Trust Board desired to purchase the shares or if this was simply assumed by the Maori Trustee.

---

<sup>234</sup> L.M.M. Nicholas to The Title Improvement Officer, 5 December 1973, WMLC Current Files 45-189.

<sup>235</sup> R.J. Emmanuel for Registrar to L.M.M. Nicholas. 18 December 1973, WMLC Current Files 45-189.

<sup>236</sup> J.V. Devcich for Registrar to L.M.M. Nicholas, 21 March 1974, WMLC Current Files 45-189.

In March 1975, the Commissioner of Crown Lands contacted the Maori Land Court Registrar to enquire about a proposed sale of Opei A Block, which was supposed to be part of the Tuhoe Kaaku block. The commissioner stated that 'the owners all wish to sell to the Crown and the Crown wishes to purchase', and that the block was not shown on a title search to belong to Tuhoe Kaaku.<sup>237</sup>

A letter is on file but it is unclear whether or not it was sent. It is dated 25 March 1975 and replies to the above enquiry. J. E. Cater stated that he had written to the Chief Surveyor in late 1974 to advise him of the status of this block in the Tuhoe Kaaku amalgamated titles, and that it was adjourned because of the valuation issue. He stated that a meeting had been set up to discuss the partitioning of some areas since 'a few owners wanted some of the blocks excluded from the amalgamations'. But he also stated that 'if the owners of the above block [Opei A] wish to sell to the Crown there appears to be nothing to stop them doing so'.<sup>238</sup>

A signed letter to the Maori Land Court Registrar from the majority of owners of Opei A, dated 24 March 1975, stated that they had 'received information recently' informing them that 'the Court is contemplating the amalgamation' of their block.<sup>239</sup> They went on to say that

with all due respect to the Maori Land Court and Chief Judge Scott, we hereby give notice that we strongly oppose the inclusion of "Opei A" in the proposed amalgamation and respectfully request that this block be withdrawn and remain under the control of we, the owners.<sup>240</sup>

In late April 1875, Devcich wrote to the Deputy Registrar advising him of the completion of valuations for Tuhoe Kaaku and Tuhoe Tuawhenua and suggesting that he, Devcich, inspect the blocks with the sub-committee and 'a representative of Tuhoe Waikaremoana Maori Trust Board and discuss the matter with the occupiers on the ground'.<sup>241</sup>

Following these communications, a letter was sent to Mr Briffault of the Department of Lands and Survey elaborating on the position of Opei A. Cater stated in this letter

---

<sup>237</sup> A.E. Turley, Commissioner of Crown Lands, to Maori Land Court Registrar, 17 March 1975, WMLC Current Files 45-200 v.1.

<sup>238</sup> J.E. Cater, Registrar, to Commissioner of Crown Lands, Attn Mr Briffault, 25 March 1975, WMLC Current Files 45-200 v.1.

<sup>239</sup> R.N. Rush and others to Registrar, Maori Land Court, 24 March 1975, WMLC Current Files 45-200 v.1.

<sup>240</sup> R.N. Rush and others to Registrar, Maori Land Court, 24 March 1975, WMLC Current Files 45-200 v.1.



that the amalgamation of Tuhoe Kaaku 'was stood down by the Court so that in effect the Opei A Block and other Blocks proposed as lands to comprise the new Tuhoe Kaaku Block still stand as separate titles in the records of the Court'.<sup>242</sup> As was to be seen later in the proceedings in the High Court regarding Tuhoe Tuawhenua, this was not actually the case. The amalgamation order was not stood down. Instead, the rehearing, because of valuations, was stood down. Cater went on to state that 'No amalgamation was made as some owners were opposed to all or part of their lands being amalgamated' and there were queries over the valuations to be used. He informed Briffault that a meeting of owners was being held to decide if they wanted their lands to be amalgamated and whether they would accept the valuations. He stated that 'Much as we would like to have all blocks included in the amalgamation the owners' wishes must be followed if they have any substantial reasons for having their blocks excluded'. He suggested that Briffault contact the owners selling Opei A and inform them that 'you intend to move to have such sale [to the Crown] confirmed by the Court in due course'.<sup>243</sup>

In June 1975, the secretary of the Tuhoe Waikaremoana Maori Trust Board wrote to the Registrar to request that the Court 'expedite action' on the finalisation of the amalgamations of Tuhoe Tuawhenua and Tuhoe Kaaku.<sup>244</sup> The reply outlined the situation regarding Opei A and further desired exclusions from some owners, as well as including a schedule of new valuations as at 1 July 1974. J. Devcich also confirmed a meeting to be held between the Court officials and a representative of the Tuhoe Waikaremoana Maori Trust Board and a member of the Tuhoe Kaaku Subcommittee to discuss those matters.<sup>245</sup>

In mid-1981 the matter regarding Opei A was still unresolved. The owners of the block wrote to the Maori Affairs District Officer enquiring about the status of the block. They said:

We, the undersigned are the part owners of the Opei A Block of land situated in the Waimana Valley.

---

<sup>241</sup> Devcich to Deputy Registrar, 22 April 1975, WMLC Current Files, 45-200 v.1.

<sup>242</sup> J.E. Cater, District Officer, to Mr Briffault, Department of Lands and Survey, April 1975, WMLC Current Files 45-200 v.1.

<sup>243</sup> J.E. Cater, District Officer, to Mr Briffault, Department of Lands and Survey, April 1975, WMLC Current Files 45-200 v.1.

<sup>244</sup> T.B. Nikora to Maori Land Court Registrar, 16 June 1975, WMLC Current Files, 45-200 v.1.

<sup>245</sup> J. Devcich, for Registrar, to The Secretary, Tuhoe Waikaremoana Maori Trust Board, 25 June 1975, WMLC Current Files, 45-200 v.1.

We understand this block has been discussed for Amalgamation to become part of the Tuhoe Tauwhenua [sic] Block [corrected by hand to Kaakuu]

Our Family own the whole of Opei A and to the best of our knowledge none of us have given consent to this programme. Could you please write and inform us, how this has become possible and whom has authorised such a move.

The immediate [sic] feeling of the Family is of strong objection towards this move and our wish is for the Block Opei A to remain partitioned as such.<sup>246</sup>

The reply was not satisfactory. R.J. Emmanuel, the Registrar, informed Mrs Rush, for the owners, that

It is now my opinion that before any further steps are taken we should await the results of the High Court proceedings in the Tuhoe Tuawhenua case. That result will I am sure have a direct bearing on what we will be able to do in the case of Tuhoe Kaakuu.

I realise that this will only further delay matters however I can only ask you and the other owners of Opei A to co-operate in this regard.<sup>247</sup>

The delays resulted in actual problems for those on the land. Correspondence between the lawyers for R.J. Wardlow Jr, a shareholder in Opei A, and the Maori Land Court highlight the inability for any real progress when the titles were still uncertain. Wardlow wanted to lease Opei A, and his lawyers had initially discussed this lease with the solicitors for the Trust Board, Ken Hingston and John Chadwick. Hingston and Chadwick advised that they would get the Board to consider discuss the leasing proposal. Hamerton, Chappell, Dumbill & Moore, Wardlow's solicitors, sought enlightenment from the Court as to how they could arrange a formal lease while the title was disputed.<sup>248</sup>

The reply was brief and to the point. The Deputy Registrar, Miss C Matangi, wrote that

despite the fact that the title position is still under dispute, it will be necessary for your client to negotiate formal lease arrangements with the trustees, being the Tuhoe Waikaremoana Maori Trust Board. At this stage they are the only body with the authority to negotiate and conclude such contracts.<sup>249</sup>

---

<sup>246</sup> Nellie Angus and others to District Officer Maori Affairs Department, 15 June 1981, WMLC Current Files 45-200 v.1.

<sup>247</sup> R.J. Emmanuel, Registrar, to Mrs R Rush, 19 October 1981, WMLC Current Files, 45-200 v.1.

<sup>248</sup> Hamerton, Chappell, Dumbill & Moore to the Registrar Maori Land Court, 16 July 1984, WMLC Current Files 45-200 v.1.

<sup>249</sup> C. Matangi, Deputy Registrar, to Mr Jones of Hamerton, Chappell Dumbill & Moore, 1 August 1984, WMLC Current Files, 45-200 v.1.

In January 1985 Hamerton, Chappell, Dumbil & Moore wrote again to the Registrar to say that they had yet to hear from the solicitors for the Trust Board in regard to the proposed lease 'no doubt because the title position was in dispute'. As they understood that this title position had now been resolved they requested clarification on how the present title position would affect the lease proposal.<sup>250</sup>

R.J. Emmanuel, the registrar, replied that he regretted:

to advise that the title position regarding this block is not yet resolved and remains as stated in our letter of 1 August 1984.

Opei A was in fact one of the blocks which was amalgamated with others to form Tuhoe Kaakuu block. This should not be confused with Tuhoe Tuawhenua block which was also created by amalgamation and was the subject of a recent High Court proceeding which resulted in the quashing of that amalgamation.

Unfortunately, pressure of work has been such that we have been unable to look at Tuhoe Kaakuu amalgamation and its related problems apart from an initial meeting with a representative from each of the Tuhoe Waikaremoana Trust Board and Lands and Survey in an effort to formulate some future strategy. We do intend to go back to the owners at some stage, however a deal of ground work must be completed before any meetings can be called.<sup>251</sup>

John Chadwick, who assisted Ken Hingston in representing the Tuhoe Waikaremoana Maori Trust Board, wrote to Hamerton Chappell Dumbill and Moore nearly a year after they had first been contacted, to say that they 'have now received instructions'. A report on the feasibility of land usage was being prepared and would then be presented to owners at meetings yet to be called. 'The owners will then decide what they want to do. Then the Court will make what orders are necessary'. He noted that it would still be some time before the matter would be finalised and that a meeting of owners was to be called by the Court if it could be 'prevailed upon' to do so.<sup>252</sup>

In February the following year, Hamerton Chappell Dumbill and Moore wrote to the Registrar to state the situation that their client was now facing due to the delays. It was stated that:

Whilst our client appreciates the complicated nature of the matter and the unavoidable delays that this will cause, he is becoming increasingly

---

<sup>250</sup> Hamerton Chappell Dumbill & Moore to the Registrar Maori Land Court, 31 January 1985, WMLC Current Files 45-200 v.1.

<sup>251</sup> R.J. Emmanuel, Registrar, to Hamerton Chappell Dumbill & Moore, 20 February 1985, WMLC Current Files 45-200 v.1.

<sup>252</sup> John Chadwick to Hamerton Chappell Dumbill & Moore, 8 October 1985, WMLC Current Files, 45-200 v.1.

frustrated that as the major shareholder in the block he is unable to formalise his proposed lease. He has expressed an intention to enter into occupation of the block to graze beef stock on it and to carry out clearance of weeds and erection of fences. We have advised our client that at the moment such occupation could be on an informal basis only and could be challenged by other owners in the block if any were opposed to his occupation.<sup>253</sup>

The reply came very quickly and explained that the Court had ordered a rehearing of Tuhoe Kaaku.

The Court has directed that prior to this taking place that a feasibility report be obtained so that a meeting of owners can be called and various options placed before the owners...

Provided we can get sufficient addresses, we are aiming to call a meeting of the owners in late June.<sup>254</sup>

The owners were not the only people unaware of the status of the amalgamation. A letter received from R. M. Velvin, the Commissioner of Crown Lands informed the Registrar of the Maori Land Court that parts of Pawharaputoko T and Parekaeaea T

for which the Maori Land Board approved our entering into negotiation for acquisition have since become a part of Tuhoe Tuawhenua Block subject to an application to vest in the Tuhoe Waikaremoana Maori Trust Board.

Our negotiations for Tuhoe Tuawhenua are proceeding under Ministerial direction and by a Joint Committee of which the Secretary of Maori Affairs is a member.

Under the circumstances I think it appropriate that application held by you be withdrawn.<sup>255</sup>

A note to Devcich on this letter indicates that as 'this was part of the package deal in respect of the amalgamation of certain Tuhoe blks [sic]', and if so the letter should be attached to the application.<sup>256</sup>

J.V. Devcich, as Divisional Titles Officer, informed the Deputy Registrar on 26 March 1974 that he had send 'some 40 odd additional panuis' to owners of Te Manawa-o-Tuhoe and Te Pae-o-Tuhoe 'who were at the last meeting of owners at Ruatoki on 23 November [1973] and the Court sitting the following day. The panuis

---

<sup>253</sup> Hamerton Chappell Dumbill & Moore to Registrar, 13 February 1986, WMLC Current Files 45-200 v.1.

<sup>254</sup> P.R. Hunt for Registrar to Hamerton Chappell Dumbill & Moore, 21 February 1986, WMLC Current Files 45-200 v.1.

<sup>255</sup> R.M. Velvin Commissioner of Crown Lands to Registrar Maori Land Court, 24 November 1976, WMLC Current Files 45-198 v.1.

were sent to prominent owners as suggested by Mr McGarvey'.<sup>257</sup> He had also sent 10 copies of the notice to the Secretary of the Tuhoe Waikaremoana Maori Trust Board.

Devcich stated that he understood that the Court sitting advertised for 30 March was being held solely to deal with the proposed exchange of Maori land for Crown land, and that 'no further action was necessary in regard to the applications dealing with Tuhoe Tuawhenua and Tuhoe Kaakuu. On 14 February 1972, the Court made section 435 orders amalgamating the titles on the Rating Roll capital values in each case'. He noted that later, it being found that 'considerable improvements' had been made on some blocks, the Deputy Registrar had asked for a rehearing. Devcich then made the common mistake of stating: 'the Court adjourned the applications sine die', rather than adjourning the rehearing.<sup>258</sup> Devcich noted that new roll valuations would be released in July or August that year and that

it may be desirable to wait until these figures are available rather than work on the 1969 values which are hopelessly out of date. You will recall some owners expressing their concern at 1969 values being used for amalgamations in 1973 at the sitting on 24.11.73.<sup>259</sup>

The Board of Maori Affairs noted that they did not need to provide extra endorsement for 'the proposals approved by Cabinet on 31 May 1977', as the executive committee of the board had authorised and approved the negotiation of exchanges of Crown and Maori land in Te Manawa-o-Tuhoe on 23 May 1973.<sup>260</sup>

The Chief Judge, K. Gillanders Scott, reported back to the Registrar in August 1977 regarding the exchanges. The Court was required to ratify the exchanges at a special sitting but Gillanders Scott noted that he was yet to meet with Hingston and T.B. Nikora, secretary of the Trust Board, regarding Cabinet approval of the deal. The Judge told Nikora that the 'Court wants certainties etc before it moves further', as he was unclear on exactly what Cabinet had approved.<sup>261</sup>

---

<sup>256</sup> Note on letter from R.M. Velvin Commissioner of Crown Lands to Registrar Maori Land Court, 24 November 1976, WMLC Current Files 45-198 v.1.

<sup>257</sup> J.V. Devcich, Divisional Officer Titles, to Deputy Registrar, WMLC Current Files 45/198 v.1.

<sup>258</sup> J.V. Devcich, Divisional Officer Titles, to Deputy Registrar, WMLC Current Files 45/198 v.1.

<sup>259</sup> J.V. Devcich, Divisional Officer Titles, to Deputy Registrar, WMLC Current Files 45/198 v.1.

<sup>260</sup> A.B. Atkinson for Secretary Maori Affairs, to District Officer Rotorua, 7 September 1977, WMLC Current Files 45-189.

<sup>261</sup> K. Gillanders Scott to Mr Registrar Roberts, 29 August 1977, WMLC Current Files 45-189.

As late as 1978, there were complaints from owners regarding an amalgamation of their lands of which they claimed to have been unaware. Mary Morrison called into the District Office of the Waiariki Maori Land Court in February 1978 to inform them that she leased a farm in Waiohau, consisting of 143 acres, and that this formed part of a land block known as Pukehou. Title searches showed the staff that she was actually not shown as a lessee on Pukehou but was in Waiohau B14. She told staff that 'she did not know that Pukehou had been amalgamated into Te Manawa-o-Tuhoe and she objects to this', wanting to have her farm excluded. She stated further that 'she was not informed of this amalgamation and therefore she is entitled to have her farm lot excluded'. The Notes of Interview state that Morrison had met with the Deputy Registrar the previous week 'however she said that he was unable to advise her'.<sup>262</sup> As a result of this lack of advice she and Bubba Morrison, her son, intended to put a case before the Trust Board Secretary the following Saturday.<sup>263</sup>

Notes on the bottom of the file note state that when asked, Piki McGarvey of the Trust Board Steering Committee advised that 'Mary Morrison's consent to Amalgamation obtained', but they could not 'trace any consent'. The instructions to staff were to advise Morrison 'to seek legal advice if she is still aggrieved and opposed', and that she could apply to the Court for a rehearing.<sup>264</sup>

Morrison did engage legal representation and her lawyer wrote to the Registrar of the Maori Land Court with several issues. Albert Orme, the solicitor for Mary Morrison, stated that the major concern of the owners he represented was that the Waiohau block 7 had been 'partitioned or divided without their knowledge', leaving them with 69 acres while the remaining 143 were incorporated into the amalgamated title. They requested the return of the 143 acres. The questions he had for the Court are as follows:

1. When was the land containing the 143 acres transferred to the Tuhoe Waikaremoana Maori Trust Board (If this in fact is the case)?
2. What was the basis of the transfer (if any)?
3. When did the transfer if any arise?
4. What records do you have which indicates [sic]

---

<sup>262</sup> Notes of Interview 23 February 1978, WMLC Current Files 45-189.

<sup>263</sup> Notes of Interview 23 February 1978, WMLC Current Files 45-189. Tama Nikora advises that this was settled out of Court, and he will offer evidence on this matter.

<sup>264</sup> Notes of Interview, file notes, 27 February 1978, WMLC Current Files 45-189.

- (a) The area in issue (see area shaded)?
  - (b) The list of owners and their respective shares in the land?
5. What remedies are available as far as the convenience of the Court is concerned to correct these errors?
6. Would the Court and all parties who have standing in the matter deal with this better perhaps by a special application to the Court pursuant to the Maori Land Court Rules?
7. Would the Court and naturally with the consent of all the parties who may have an interest in the land
- (a) Return the land to the rightful owners (subject of course to clarification of all the points raised)?
  - or (b) in the alternative consider and exchange of lands known as B section 8 in lieu of the return of the 143 acres. Any alternative exchange if considered at all would have to be of equivalent area or value.<sup>265</sup>

Orme was keen to point out that 'there is no suggestion that any person or body has acted in bad faith, but we are concerned to correct any errors which may have arisen'.<sup>266</sup>

The Court's reply stated that the

initial moves in the Te Manawa-o-Tuhoe amalgamation came from the Tuhoe people themselves. They set up a Steering Committee which had several meetings with the owners and also obtained written consents from the major owners in the blocks concerned.<sup>267</sup>

K. Rangi, the Deputy Registrar, went on to state that they had been told by a member of the Steering Committee that Merekorama (Mary) Morrison had given her consent to the partition of Waiohau and the 143 acre section being included in the amalgamation, but admitted that 'we are unable to find any consents attached to the application'.<sup>268</sup> Rangi also noted that an application under section 452 to the Chief Judge appeared to be appropriate in this case, if such was the desire of the owners.

Regardless of objections, it seems unfortunate that as late as 1980 enquiries as to the status of individual land blocks were still being received. Trevor Booth, solicitor, wrote to the Secretary of Maori Affairs to ask on behalf on John David Te Rangiaonui

---

<sup>265</sup> Albert Orme, solicitor, to Registrar Maori Land Court, 23 February 1978, WMLC Current Files, 45-189. Emphasis in original.

<sup>266</sup> Albert Orme, solicitor, to Registrar Maori Land Court, 23 February 1978, WMLC Current Files, 45-189.

<sup>267</sup> K. Rangi, Deputy Registrar, to A.F. Orme, 2 March 1978. WMLC Current Files 45-189.

Marino the situation regarding the title of the Te Manawa-o-Tuhoe block specifically the Whaka-Rahui part. Marino and his son wanted to know 'the extent of the land interests and what the present title situation is following proposed amalgamation, and if possible the valuation of this interest'.<sup>269</sup>

## **5.2: Maori Land Court Rehearings**

### **5.2.1: Tuhoe Kaaku Rehearing**

On 1 July 1985 Potts and Hodgson presented a submission from the owners of the Pahekeheke block, one of the Tuhoe Kaaku blocks. The submission reads:

The Pahekeheke Block is one of the Blocks amalgamated with Tuhoe Kaaku. The Owners have plans and a viable project for the use of the Pahekeheke Block as an individual Block and do not wish the Block to be amalgamated with other Blocks in the Tuhoe Kaaku. The Owners of the Pahekeheke Block have filed an application with Whakatane District Council for planning consent to establish a dwelling on the Block together with a workshop base camp for tourism, carving and fur recovery from the Block.

The Owners of Pahekeheke Block wish to have control over their own land and to set up a separate Trust to administer their own Block. The Owners are of the opinion that their plans are viable and would also benefit their own young people, as it is proposed to use the development of this Block as a programme for the employment of the young people of the district.<sup>270</sup>

Five years later it was Tarahore owners wishing to have their lands returned. David Hillman, as Chairman for the Trustee for Tarahore No. 2 and representing the other parties, applied to the Court to have Tarahore No. 2 'returned to its beneficiaries'. The reasons given for the land to be 'returned' were mainly to do with the fact of the land being vested in the Tuhoe Waikaremoana Trust Board, during which time the beneficial owners had received no monetary benefits and the land had seen no improvements. Rather the land had been 'blatantly abused by hunters, holidaymakers etc much to the concern of the beneficiaries'. Beneficial owners were still paying the rates to the Whakatane District Council, \$456.00 a year. Hillman urged the Court to 'consider returning the block (Tarahore No. 2) to us so as to allow us to administer

---

<sup>268</sup> K. Rangi, Deputy Registrar, to A.F. Orme, 2 March 1978. WMLC Current Files 45-189. As noted previously, Tama Nikora advises that this matter was resolved out of court, and he will give evidence on this.

<sup>269</sup> Trevor Booth to Secretary of Maori Affairs, 20 October 1980, WMLC Current Files, 45-189.

<sup>270</sup> Submission by the Owners of the Pahekeheke Block Regarding Tuhoe Kaaku, presented by Potts and Hodgson, 1 July 1985, WMLC Current Files, 45-200 v.1.



and control and use the above land as was the intention of our ancestors to leave it to the whanau.<sup>271</sup>

M Dittmer wrote a memo to Judge Hingston for directions on the status of Tuhoe Kaaku lands. The memo is worth quoting at length as it summarises the situation well.

1. On 16 April 1985 (77 Whakatane MB 122-125) the court heard application for re-hearing filed by the owners of Pahekeheke block after the application for amalgamation had been laying dormant for some time.

A rehearing was ordered by the court with directions that the Registrar:

(a) Arrange a meeting of owners with the various bodies affected to be notified to attend or to prepare submissions on the matter.

(b) Obtain a feasibility report on the land with recommendations as to their potential if any.

2. Minutes were sent on 16 April 1985 to those parties named [in the minute book]

The said bodies were notified again on 7 June 1985 by letter...

3. A feasibility report was received from Mr T.R. [Tama] Nikora under cover of a letter dated 19 December 1985...

On 21 February 1986 the Deputy Registrar advised that the feasibility report had recently come to hand and had been forwarded to the Tuhoe Waikaremoana Trust Board for their perusal and comments.

4. There is a note on file by the Registrar...advising that the court was waiting for the boards comments on the report and recommendations as to how notice can best be given for a meeting of owners.

5 To date there has been no reply from the Tuhoe Waikaremoana Trust Board on the report or meeting of owners.

6. On 16 June 1988 at the Hillman Residence the owners of Tarahore No. 2 held a hui to form a trust for their land.

At the meeting they elected 9 trustees to look after the land then moved on to general business...

7. On 21 March 1990 David Hillman made a submission requesting that Tarahore No. 2 be returned to the beneficiaries claiming that there have been no improvements to the land and that the land has been abused by hunters and holiday makers since being vested the the [sic] Tuhoe Waikaremoana Trust Board.

I seek your directions as to what steps should be taken to clear this matter up.<sup>272</sup>

---

<sup>271</sup> David Tauwhitu Hillman to Department of Social Welfare, 21 March 1990, WMLC Current Files, 45-200 v.1.

<sup>272</sup> M Dittmer to Judge Hingston, 6 June 1990, WMLC Current Files, 45-200 v.1.

At the end of 1984, R J. Emmanuel, in a file note, informed Hunt that he had, after discussions with Tahi Tait and Tama Nikora, agreed to a title improvement exercise being carried out in regards to Tuhoe Kaaku.<sup>273</sup> He noted that:

what we are looking at is reviving the former application under the verbal re-hearing application filed by Phil Patrick. Hopefully this would take place at the Whakatane sittings in April 1985 with a view to:

- (a) setting aside the amalgamation order of 1972 thus validating all the various orders made in the former individual titles since 1972
- and (b) making such new orders as are desirable after our investigations have been completed.<sup>274</sup>

A Court sitting on 16 April 1985 considered the application for rehearing of the original Tuhoe Kaaku application. The Court outlined the adjournment of a rehearing in 1972 and the fact that ‘the matter lay dormant until the 13 March 1985 when Counsel for the owners of Pahekeheke Block – one of the titles included in the amalgamation – filed a formal application for a fixture for a re-hearing’.<sup>275</sup> The Court conducted an ‘on the ground inspection of the lands included in the amalgamation order’ on 11 April 1985 accompanied by Lands and Survey Department staff and surveyors, in order to get a feel for what the land was like and what it could be used for.<sup>276</sup>

It was noted in the minutes that various former titles in the amalgamated blocks had had orders made on them after the amalgamation orders had been made. The blocks involved were Te Kaawa no. 3, Omaruwharekura A, and Tawhare A.

Judge Hingston decided that a rehearing should and would be ordered, but that before the hearing occurred ‘there should be a meeting of owners convened by the registrar’, and attended by representatives of those ‘persons or bodies other than the beneficial owners who should be heard’, namely Lands and Survey Department, Commissioner of Crown Lands, Bay of Plenty Catchment Board, Whakatane County Council, and the Tuhoe Waikaremoana Maori Trust Board.<sup>277</sup>

---

<sup>273</sup> R.J. Emmanuel, File Note 13 December 1984, WMLC Current Files 45-200 v.1.

<sup>274</sup> R.J. Emmanuel, File Note 13 December 1984, WMLC Current Files 45-200 v.1.

<sup>275</sup> MLC Whakatane MB 77 p. 123.

<sup>276</sup> MLC Whakatane MB 77 pp. 123-4.

<sup>277</sup> MLC Whakatane MB 77 p. 124.

Hingston stated that this meeting that it was proposed to hold, should make clear 'the various options available to the owners', so that they could reach 'a reasoned rather than a sentimental conclusion'.<sup>278</sup>

Various questions for consideration by this meeting were posed by the Court:

Should the amalgamation stand?

Should the order be varied to produce 3 titles taking in the areas more closely associated?

If there is to be an amalgamation...what is the potential use of the land? Should it be retired? Is it capable of development for afforestation? Has it any potential for Tourism? Would the owners' interests best be served by leasing the lands to the Crown for inclusion in the Urewera National Park or perhaps entering into an exchange with the Crown?

Are the[re] certain areas capable of some other form of development warranting their exclusion from the amalgamation?<sup>279</sup>

To assist the owners in deciding on these matters the Court directed that this minute be distributed to the departments and Trust Boards noted above inviting their submissions.

### **5.2.2 Tama Nikora's Land Utilisation Report for Tuhoe Kaaku**

Tama Nikora, not to be confused with his brother, Trust Board Secretary Buddy Nikora, submitted a Land Utilisation Report at the request of the Maori Affairs Department. Nikora was a licensed surveyor and was, at the time he wrote his report, a Senior Planner with the Lands and Survey Department.<sup>280</sup> This report outlined some of the history of the Tuhoe Kaaku block and the reasons behind the drive for amalgamation. Nikora also outlined some of what he saw as the philosophies driving some of the institutions involved in the amalgamation. The purpose of the report was 'to set out a study of the circumstances of title and of land known as Tuhoe-Kaaku Block and to suggest a plan for title improvement for the consideration of the owners and the Court'.<sup>281</sup>

Nikora discussed the need for surveys of some of the blocks for which no survey was extant. He argued that any objective of a title improvement scheme should be 'to avoid unnecessary legal surveys as far as possible', because of the costs involved in

---

<sup>278</sup> MLC Whakatane MB 77 p. 124.

<sup>279</sup> MLC Whakatane MB 77 p. 125.

<sup>280</sup> Whakatane MB 58, 23 March 1995, p. 190.

surveying often isolated bush country. The Tuhoe-Kaaku block itself was unsurveyed at that point.<sup>282</sup> The report pointed out that some of the blocks within the Tuhoe Kaaku block were without any legal access 'because they are land-locked by Crown Land reserved from sale or by the Urewera National Park'.<sup>283</sup> Nikora also made the point that 'lack of formed roads otherwise restricts use of a number of Maori lands, and it may be said that failure to construct roads under the Urewera Land Act 1921-22 has resulted in some injurious affection of these lands'.<sup>284</sup>

At that point, in 1985, there were 604 owners in Tuhoe-Kaaku. Nikora stated that some of these owners were thought to have died and 'most of the owners are absentee owners or owners not resident at Waimana, but notwithstanding this, they may put a high value upon their heritage'.<sup>285</sup> According to Nikora, this heritage came from three hapu: Ngai te Kahu, Nga Maihi, and Te Whakatane.<sup>286</sup>

Tuhoe Kaaku was vested in the Tuhoe Waikaremoana Maori Trust Board on 14 February 1972, and on 14 July 1979 when the terms of trust were set out by the Court, three additional people were appointed as advisory trustees: Rangi Rakuraku, Tawhiti te Wharau, and Mau Rua.<sup>287</sup>

The Report contains a schedule of memorials relating to the various blocks and, as stated by Nikora, 'this information shows amazing situations of Court orders on top of other Court orders'.<sup>288</sup> This situation arose from the confusion surrounding the actual date of amalgamation.

According to Nikora the lands in question were not occupied by people with 'formal tenure', and there was only one lease – that of Te Kaawa 3 by the Maori Trustee to May Rua, after the land was vested in the Maori Trustee by the Maori Land Court on 12 March 1975.<sup>289</sup> It is important to note that at this date the land in question had been included in the Urewera Amalgamation for three years, raising the question of why it was vested in the Maori Trustee at such a late date.

---

<sup>281</sup> T. Nikora, 'Land Utilisation Report for Tuhoe-Kaaku', November 1985, WMLC Current Files 45-200 v.1.

<sup>282</sup> T. R. Nikora, 'Land Utilisation Report for Tuhoe-Kaaku', November 1985, WMLC Current Files 45-200 v.1

<sup>283</sup> Nikora Report November 1985.

<sup>284</sup> Nikora Report November 1985.

<sup>285</sup> Nikora Report November 1985.

<sup>286</sup> Nikora Report November 1985.

<sup>287</sup> Nikora Report November 1985.

<sup>288</sup> Nikora Report November 1985.

Nikora included a section in which he aimed to 'set out the planning requirements, intentions or views of various authorities as have or may have impact to constrain or direct the management of Tuhoe Kaaku'.<sup>290</sup> The Maori Land Court is reported as recommending that owners consider the inclusion of the lands in the Urewera National Park. Nikora states:

On 8 July 1969 the Court posed a question in relation to bush lands up the Whakatane river: "Might not the long sighted view be the inclusion of all these lands now in the Urewera National Park...." This year on 16 April 1985 (15 years later), a similar view was again expressed by the Court but in relation to Tuhoe-Kaaku.<sup>291</sup>

The Tuhoe position regarding the drive for amalgamation was indicated by Nikora as beginning with the Soil Conservation and Rivers Control Act 1959 which restricted the milling of native forests. Nikora stated that:

From the Tuhoe point of view, they read these restrictions as confiscation of their assets for which they felt they should be fairly compensated, and through the 1960's, all their major meetings held considered this question where there was eventual conclusion that bushlands should be amalgamated to enable their common concerns to be represented to Government. Lack of documentation of these meetings is now much regretted.<sup>292</sup>

When discussing the potential use of these lands, Nikora noted the need to preserve native forests, and the importance of the Urewera National Park. Other land usages in practice included the 'informal' occupation and grazing of stock on 'limited grassed areas for supplemental income'. He stated that not all houses or occupancy had been appraised but that 'it is felt that this [their occupation] should be assured. Moreover, there should be concern to assure the continuance of the "Whakarae" community'.<sup>293</sup> Nikora noted that the land was unsuitable for commercial horticulture or deer farming. As for tourism, Nikora pointed out that although it was a possibility, it was dependent on many things, including industry competition, and suitable roading. This meant that 'fair returns for land owners may be difficult to achieve or obtain'.<sup>294</sup>

---

<sup>289</sup> Nikora Report November 1985.

<sup>290</sup> Nikora Report November 1985.

<sup>291</sup> Nikora Report November 1985.

<sup>292</sup> Nikora Report November 1985.

<sup>293</sup> Nikora Report November 1985.

<sup>294</sup> Nikora Report November 1985.

Nikora answered the Court's query about whether leasing the lands to the Crown for inclusion in the Urewera National Park or exchanging lands with the Crown would best serve the interests of the owners. He stated that

It is likely that the latter [an exchange] is not possible because of very little Crown holdings in this district which incidentally are committed to other purposes. It should be preferred however that such a question be left to Trustees possessed of some suitable trust to consult the wishes of the beneficial owners and to undertake any investigations required for their consideration.<sup>295</sup>

Nikora also pointed out that the land was held in multiple ownership and often by 10 or more owners. He stated that it was

difficult if not impossible to manage land in multiple ownership and to attend decision making required unless some form of trust is established with proper concern for costs of administration in the interests of the owners.

In general, but subject to some reservations explained below [in title improvement suggestions], it is considered that 'Tuhoe-Kaaku' lands and others of interest can be more conveniently worked or dealt with if it were held in common ownership.<sup>296</sup>

### **5.2.3: Tuhoe Kaaku Rehearing Resumed**

Tuhoe Kaaku was still undecided in 1991. P.R. Hunt, the Deputy Registrar, wrote to the Secretary of the Tuhoe Waikaremoana Maori Trust Board to inform them that there would be a re-hearing of the Tuhoe Kaaku block at Whakatane on 2 April 1991. The hearing was to be a preliminary one only, at which administrative matters of where the actual rehearing would be heard, the serving of notices and other such things would be dealt with. No evidence was to be heard at this hearing. Hunt asked the secretary to 'please let any other interested parties know of this preliminary hearing'.<sup>297</sup>

An internal memo to the Chief Registrar, Kem Tukukino, from Hunt outlined the major necessity behind these hearings, the special sittings of which were scheduled for 3 to 5 July 1991. He stated that the sittings were to 'determine the matters relating

---

<sup>295</sup> Nikora Report November 1985.

<sup>296</sup> Nikora Report November 1985.

<sup>297</sup> P.R. Hunt, Deputy Registrar, to The Secretary Tuhoe-Waikaremoana Maori Trust Board, 7 February 1991, WMLC Current Files 45-200 v.1.

to [Tuhoe Kaaku] which basically came about as a result of the Court not handling the case properly in the first instance when the Orders were made in 1972'.<sup>298</sup>

In May 1991, Hunt wrote a memo for the attention of the Chief Registrar regarding the special sitting for Tuhoe Kaaku scheduled to be held in July. He noted that 'since the amalgamation various groups of owners have been lobbying to have their individual blocks withdrawn from the title'.<sup>299</sup> As a result of this 'lobbying', the Court granted a rehearing on 16 April 1995. The Court further directed

that the Tuhoe Waikaremoana Trust Board conduct meetings of owners and also consult with the local authorities concerned. However these meetings have not as yet taken place and the Court has now set aside the 3<sup>rd</sup>-5<sup>th</sup> July 1991 for the Special Sitting which was referred to in my previous memorandum of 8 April 1991.<sup>300</sup>

However, the matter was not settled until March 1995 when Tuhoe Kaaku came before Judge Hingston at a Rotorua sitting of the Maori Land Court. Hingston had formerly been the solicitor employed by the Tuhoe Waikaremoana Maori Trust Board, and the question of bias was raised by Mr Petersen, who 'objected to the composition of the Court'. In answer to this issue of bias, John Grant 'submitted that Mr Petersen was not ceased of the facts of the Judge's earlier involvement with Tuhoe Kaaku as well the law did not support the objection'.<sup>301</sup> Hingston recorded that he agreed with Grant. Mr Petersen then presented submissions 'regarding the effect the Treaty of Waitangi would have on the exercise by the Court of it's [sic] jurisdiction in this matter', a position rebutted by Grant in a lengthy submission regarding the nature of the Maori Land Court and its relationship with the Treaty. Following this submission, Hingston stated that the Court 'is indebted to Mr Grant for his careful exposition of the law and finds that Mr Petersen's argument on this matter is untenable'.<sup>302</sup> It seems rather questionable that the issue of bias was able to be discussed and dismissed by the very judge whose objectivity was in question.

The issues dealt with by the Court at this sitting were whether a rehearing should be ordered which would completely revise the 1972 orders, or whether the situation was

---

<sup>298</sup> P.R. Hunt, Deputy Registrar, to Chief Registrar Head Office, 8 April 1991, WMLC Current Files 45-200 v.1.

<sup>299</sup> Memo from P. R. Hunt to Chief Registrar, 2 May 1991, WMLC Current Files 45-200 v.1.

<sup>300</sup> Memo from P. R. Hunt to Chief Registrar, 2 May 1991, WMLC Current Files 45-200 v.1

<sup>301</sup> Whakatane MB 58, 23 March 1995, p. 182.

<sup>302</sup> Whakatane MB 58, 23 March 1995, p. 183.

best dealt with by 're-structuring'.<sup>303</sup> Judge Hingston also made the point that while the original orders had been made under the Maori Affairs Act 1953 and its amendment in 1967, the Act now in force was the Te Ture Whenua Maori Land Act 1993, providing for different rights of beneficial owners and powers of the Court. Hingston was able to make orders under the 1993 provisions or adhere to the previous legislation.<sup>304</sup> Judge Hingston also recognised that 'what may have been acceptable to the owners of the 21 blocks in 1972 may not be wanted today by some owners'.<sup>305</sup>

Hingston also noted that although there had been some 'uncertainties in the use and administration of Tuhoe Kaaku since 1972', with some parties unhappy with the role of the Trust Board, it should be noted that the land itself was still intact, which it might not have been had it not been for the presence of the Trust. Hingston also pointed out that 'title uncertainties and the possibility of a rehearing must of necessity have inhibited the Board being overly proactive as well the very land itself does not lend itself to any major development'.<sup>306</sup>

Hingston stated that the Court intended to deal with the issues surrounding the title of Tuhoe Kaaku 'by discussing, evaluating and deciding what the best result for the land will be in the interest of all owners then addressing the manner in which it should exercise its discretion'.<sup>307</sup>

Judge Hingston first covered the issue of title rationalisation. Given that Tuhoe Kaaku was one large single title which was 'largely unsurveyed', and that survey for any reason 'could only be achieved at enormous expense', Hingston agreed with Tama Nikora's assessment in his 1985 Land Utilisation Report that surveys should be avoided where possible.<sup>308</sup> Nikora's suggestion that Tuhoe Kaaku fell into 'three physically distinct groupings of farm blocks, around Whakarae, Tauwharemanuka and Tawhana', was accepted by the Court as 'sensible'. But the Judge questioned whether amalgamation of the blocks, as put forward in John Grant's submission, was the best thing to do.<sup>309</sup> Grant, the lawyer for the claimants in the Tuhoe Kaaku rehearing, had also included Opei A and B in the amalgamation, stating that 'Mr Nikora allows for

---

<sup>303</sup> Whakatane MB 58, 23 March 1995, p. 188.

<sup>304</sup> Whakatane MB 58, 23 March 1995, p. 188.

<sup>305</sup> Whakatane MB 58, 23 March 1995, p. 190.

<sup>306</sup> Whakatane MB 58, 23 March 1995, p. 190.

<sup>307</sup> Whakatane MB 58, 23 March 1995, p. 190.

<sup>308</sup> Whakatane MB 58, 23 March 1995, p. 190.

<sup>309</sup> Whakatane MB 58, 23 March 1995, p. 194.



this not to happen if there remains strong owner opposition provided those owners are prepared to undertake and be responsible for an expensive survey'.<sup>310</sup>

Judge Hingston stated that

If the original subdivisions are to be reinstated [and thus escape the need for survey] perhaps aggregation would be more logical as notwithstanding Mr Nikora's concern about survey costs the Court considers survey would only be necessary if it was to accomplish a specific alienation and then at the cost of any proposed alienee who required survey. As well, if the Court by way of partition rather than rehearing reconstituted the various former blocks, registration of such partition orders in the Land Transfer Office can now be achieved without survey.<sup>311</sup>

Hingston acknowledged the desire for a return to individual land holdings apart from the amalgamation that had been expressed by some owners, stating that

much time was spent listening to these owners and the Court must balance out the leases for an individual European title philosophy with the wider more Maori approach to this matter wanted by the majority and also acted upon by the Court in 1972.<sup>312</sup>

Judge Hingston decided that the 21 titles which existed prior to the amalgamation in 1972 were to be re-created and ownership aggregated within the three groupings suggested by Nikora.<sup>313</sup>

Regarding the administration of the lands, the Judge outlined four options. There was the original form whereby the Tuhoe Waikaremoana Maori Trust Board would act as Responsible Trustee working with advisory Trustees from the owner groups (this was the preferred option of John Grant and his clients). The second option was having no Board involvement and simply having Responsible Trustees from the owners, the third option provided for a combination of the previous two, option four provided for the Board to have a custodial Trusteeship and Responsible Trustees being drawn from the owners, and the fifth option was to have no trusteeship at all.<sup>314</sup> Judge Hingston disregarded option five because 'that would be a course of action against the interest of the owners and could ultimately put some of the land at risk of leaving Tuhoe ownership'.<sup>315</sup>

---

<sup>310</sup> Whakatane MB 58, 23 March 1995, p. 192. Within twelve months of this appearance, John Grant became the Chief Registrar of the Maori Land Court.

<sup>311</sup> Whakatane MB 58, 23 March 1995, p. 194.

<sup>312</sup> Whakatane MB 58, 23 March 1995, p. 194.

<sup>313</sup> Whakatane MB 58, 23 March 1995, p. 194.

<sup>314</sup> Whakatane MB 58, 23 March 1995, pp. 194-6.

<sup>315</sup> Whakatane MB 58, 23 March 1995, p. 196.

Judge Hingston considered the other four options in the light of statements by some owners and families that 'the Board's involvement should not continue in respect of "their" block and they were best qualified to take its place'.<sup>316</sup> The Judge made the following observations:

Tuhoe Kaaku is not in the foreseeable future going to have the economic muscle of another Tuhoe amalgamated block, Te Manawa-o-Tuhoe.

This is no reflection on the ownership or the present Trusteeship or any future trustees but admits the location and topography of the block is less desirable from a commercial viewpoint.

The Court being aware of many informal arrangements as to use of parts of this block accepts these as non-commercial use to suit the various whanau and their whanaunga. It believes that to interfere in such arrangements would be in most cases unwise and unwarranted. Intervention would only be justified if there was strong owner insistence.<sup>317</sup>

The Judge pointed out that these informal arrangements were 'acceptable to the greater body of owners'. He also pointed out that the Court was 'primarily concerned with retention of the land in Tuhoe ownership', and that considerations of a more commercial nature, in other words, the use to which the land could be put, were of a secondary nature.<sup>318</sup>

Because of the fact that any use of one block would involve 'use' of surrounding blocks (for access for instance), Judge Hingston believed that to place the lands in an owner trusteeship was unsuitable, 'primarily because other owners and other blocks could be exploited'.<sup>319</sup>

Although Judge Hingston agreed with Mr Grant's submission that the Board played an important protective role, putting the rights of the hapu above those of the individual and acting to 'ensure fairness between those all out for themselves and others who think all should be catered for', and although Hingston recognised that 'the majority of Tuhoe Kaaku owners accepted that the Board must continue to play a role in the administration of this land', he decided that the Board should not continue as sole Responsible Trustee for all three of the proposed aggregated titles. His reasons were that 'this structure means too much involvement by the Board and too little by the owners, Advisory Trustees being accountable to the Board at all times.

---

<sup>316</sup> Whakatane MB 58, 23 March 1995, p. 196.

<sup>317</sup> Whakatane MB 58, 23 March 1995, p. 196.

<sup>318</sup> Whakatane MB 58, 23 March 1995, p. 198.

Hingston believed that retention of Tuhoe land could be achieved if the Board acted as Custodial Trustee and the owners took on the role of Responsible Trustees (selected by the owners in all groups). This proposed that the Board would have little to do in the daily management of the lands and trusts, but that it would act to 'facilitate formalities if there are alienation[sic] assist in settling owner/trustee, or owner/owner problems and at all times playing a low key role.'<sup>320</sup> The Board would, for instance, have the power to bring alienations before the Court and to veto any proposed alienations, but would not intervene in the informal occupation of blocks 'if the status quo is what is wanted by owners so be it and if there is to be change the Responsible Trustees are the persons who should initiate same'.<sup>321</sup>

Judge Hingston decided finally that the 21 blocks should be aggregated into three groups and that the Board would act as custodial trustee while owners became Responsible Trustees. The manner of achieving this was discussed and Hingston chose to partition Tuhoe Kaaku into the former 21 blocks and then proceed with the aggregations. Hingston justified this by stating that by doing this, 'at all times the interests of the many owners would be protected because there will be no possibility of certain owners or families effectively exploiting the situation when there would not be Trusteeship. So Judge Hingston dismissed the application for rehearing but 'of its own motion', gave orders for partitions and aggregation orders.<sup>322</sup>

Judge Hingston recognised the need for the Tuhoe Kaaku owners who were not at the sitting to be informed of the decisions of the Court, and appointed Tahi Tait to call meetings of the three aggregated groups and explain the proposals set out in the minutes.<sup>323</sup>

### ***5.3: High Court Proceedings***

Owners of Tuhoe Tuawhenua launched a proceeding in the High Court requesting the quashing of the 1972 Amalgamation order, with a statement of claim being submitted on 16 November 1979 by Tikina Noema and Ngahirata Jennings and others against Chief Judge K. Gillanders Scott as first defendant, the Tuhoe Waikaremoana Maori

---

<sup>319</sup> Whakatane MB 58, 23 March 1995, p. 200.

<sup>320</sup> Whakatane MB 58, 23 March 1995, p. 200.

<sup>321</sup> Whakatane MB 58, 23 March 1995, p. 202.

<sup>322</sup> Whakatane MB 58, 23 March 1995, p. 202.

<sup>323</sup> Whakatane MB 58, 23 March 1995, p. 204.

Trust Board as the second defendant, and Piki McGarvey and John Rangihau as third defendants.<sup>324</sup>

Registrar Patrick's remarks on the matter were as follows:

- i. Rightly or wrongly Court staff had the impression that the order of 14.2.72 had been adjourned sine die whereas in fact only the rehearing had been adjourned.
- ii. No effort was made to draw or compile the section 435 order or section 438 order as the compilation would have been a waste of time if the basis of amalgamation was changed from capital value to unimproved value or some other.
- iii. The titles affected by the amalgamation were not removed from the relative binders.
- iv. The Court continued to make various orders....unaware because of the searches supplied, that the lands concerned were defunct by virtue of the orders of 14.2.72.<sup>325</sup>

Patrick noted that many owners, aware of the rehearing application had, upon expressing 'dissatisfaction on many aspects of the amalgamation', been informed that 'no final orders had issued and they would have the opportunity of stating their views at the rehearing'. Patrick admitted that this reassurance was incorrect.<sup>326</sup>

As to why the rehearing had not yet taken place, Patrick stated that this was for 'reasons which are not now patently clear', but it was a matter that he intended raising with the District Judge.<sup>327</sup>

Patrick also reassured the Office Solicitor that

Needless to say ... immediately after the Chief Judge's memorandum issued steps were taken to remove the offending titles from the binders and insert the appropriate orders with memorials in substitution. In the meantime no vestings of any nature will be made for any interests in either titles since the lists still have yet to be compiled. I am not inclined to do this until the case for rehearing has been dealt with and until I know whether legislation will be introduced so that orders made post 1972 may be incorporated in the compiled lists to be prepared.<sup>328</sup>

---

<sup>324</sup> Statement of Claim of Tikina Noema and others, 16 November 1979, BBLA 4945/328c National Archives Auckland.

<sup>325</sup> P.W. Patrick, Registrar, to Office Solicitor Maori Affairs, 27 November 1979, WMLC Current Files 45-198 v.1.

<sup>326</sup> P.W. Patrick, Registrar, to Office Solicitor Maori Affairs, 27 November 1979, WMLC Current Files 45-198 v.1.

<sup>327</sup> P.W. Patrick, Registrar, to Office Solicitor Maori Affairs, 27 November 1979, WMLC Current Files 45-198 v.1.

<sup>328</sup> P.W. Patrick, Registrar, to Office Solicitor Maori Affairs, 27 November 1979, WMLC Current Files 45-198 v.1.

Crown counsel informed the Secretary of Maori Affairs, in March 1980, that

It does appear from the facts as I know them at present that had the orders been implemented within reasonable time of them having been made then there would be no basis for the present application for review whatever.<sup>329</sup>

However, this issue of delay was challenged by P.W. Patrick, who stated in a letter dated 13 May 1980 that 'There does not appear to be any specific allegation of delay on any particular matter either in the statement of claim or notice of proceedings',<sup>330</sup> and further that 'the only delays would appear to be in the issue of the [trust orders on 14 February 1972 and 4 August 1979] and the fact that the rehearing intimated by the Court on 8 March 1972 never occurred'. Although these would seem to be pretty substantial delays, Patrick argued that 'both matters are the prerogative of the Court to deal with as and when it sees fit'. He stated that Gillanders Scott had seen the amalgamation as 'a special project', and that he had 'dictated the course of events leading up to the orders made and no action on the rehearing'.<sup>331</sup> However he admitted that 'we can give no specific reason for the time lapse between the two trust orders or any reason why the rehearing was indefinitely deferred'.<sup>332</sup>

Patrick also noted to the District Officer shortly afterwards that the delays in finalising the valuations to be used, which had delayed the drawing up of lists for the titles, meant that 'we are having problems with estates since we cannot give values of interests for the new titles'.<sup>333</sup>

In December 1980, the Office Solicitor wrote to ask Mr Patrick to examine the Statement of Claim and let him know if the facts stated in the submission 'accurately record the factual position'.<sup>334</sup>

Patrick's reply informed the solicitor that as 'Mr Phillips [the plaintiff's lawyer] has had free access to the Court applications and supporting papers', the factual record

---

<sup>329</sup> C.G. Anderson, Crown Counsel, to Secretary of Maori Affairs, 28 March 1980, BBLA 4945/328c, National Archives Auckland.

<sup>330</sup> Internal Memo to Head Office by P. W. Patrick, Registrar, re Tikini Noema and Others v Scott and the Tuhoe Waikaremoana Maori Trust Board, 15 May 1980, BBLA 4945/328c, National Archives Auckland.

<sup>331</sup> Internal Memo to Head Office by P. W. Patrick, Registrar, re Tikini Noema and Others v Scott and the Tuhoe Waikaremoana Maori Trust Board, 15 May 1980, BBLA 4945/328c, National Archives Auckland.

<sup>332</sup> Internal Memo to Head Office by P. W. Patrick, Registrar, re Tikini Noema and Others v Scott and the Tuhoe Waikaremoana Maori Trust Board, 15 May 1980, BBLA 4945/328c, National Archives Auckland.

<sup>333</sup> P.W. Patrick to District Officer, 10 June 1980, BBLA 4945/328c, National Archives Auckland.

presented in the statement of claim was 'substantially correct'.<sup>335</sup> He further cleared up a misconception that the rehearing had been applied for by a written submission from a claimant. He told the solicitor that in fact he had simply 'expressed my doubts to the Court as to the dubious values of some improvements (old buildings) on some blocks', and that from that the Court had made an entry in the Minute Book noting that 'An order for rehearing is moot' and adjourning it sine die.<sup>336</sup>

As to the question of whether or not there had been a list of owners at the hearing, Patrick pointed out that although the list had not been present at the hearing and still was not in existence 'because it will involved a lot of work which could be for no purpose since the orders may be quashed', it was simply

not the usual practice to prepare such a list involving many blocks and a multitude of owners when there is always a possibility at any hearing, of part or all of some blocks being excluded from the proposed amalgamation.<sup>337</sup>

Gillanders Scott claimed in early 1982 that certain relevant papers required by the High Court had not been filed by staff at the Maori Land Court.<sup>338</sup> In late 1983, G. D. Fouhy, the Chief Registrar informed the Office Solicitor that he had been investigating the claim of Gillanders Scott that this omission was 'a deliberate effort on the part of departmental officers to undermine the course of justice'. Fouhy decided that 'there was no deliberate attempt on the part of anyone to deceive. In fact, most of the staff are under the impression that the terms of the Court order...have been complied with'. However, he did note that the records relating to this case 'have not been kept tidily', and that the situation whereby the amalgamation orders had not been treated by the staff as orders 'remained the same, and I am not particularly pleased about it'.<sup>339</sup>

---

<sup>334</sup> M. C. Coubrough, Office Solicitor, to Registrar, 5 December 1980, BBLA 4945/328c, National Archives Auckland.

<sup>335</sup> P. W. Patrick to Office Solicitor Head Office, 11 December 1980, BBLA 4945/328c, National Archives Auckland.

<sup>336</sup> P. W. Patrick to Office Solicitor Head Office, 11 December 1980, BBLA 4945/328c, National Archives Auckland.

<sup>337</sup> P. W. Patrick to Office Solicitor Head Office, 11 December 1980, BBLA 4945/328c, National Archives Auckland.

<sup>338</sup> K. Gillanders Scott to Secretary Department of Maori Affairs, Confidential, 3 March 1982, WMLC Current Files 45-198 v.1.

<sup>339</sup> G.D. Fouhy, Chief Registrar, to Office Solicitor, 16 November 1983, WMLC Current Files 45-198 v.1.

The actual High Court hearing did not take place until 18 September 1984. The judgement of Judge Richard C Savage was presented in November 1984.<sup>340</sup> In his judgement, Savage outlined the claims of the plaintiffs. The initial statement of claim was made on 15 November 1979, and an amended motion was filed on 31 July 1981. In this latter motion, the plaintiffs alleged that the amalgamation and vesting orders were made 'without, or in excess of, jurisdiction in five separate respects'.<sup>341</sup> Firstly, they alleged that section 435 of the Maori Affairs Act 1953 allowed a judge to make an amalgamation order if the Court was 'satisfied that areas of land held under separate titles can be more conveniently worked or dealt with as if they were held in common ownership under one title', but that 'no such evidence' had been presented to the Court to enable the Judge to make an informed decision.<sup>342</sup>

Secondly, they claimed that the application and the order for amalgamation were 'defective' as the relative interests of the owners of the land were not set out, as required under section 435. Thirdly, they claimed that no evidence had been presented to Judge Gillanders Scott to show that owners had been 'given reasonable opportunity to express their opinion as to the persons to be appointed' to the trust, and therefore he should not have made the vesting order. The fourth claim was based on a procedural error whereby the judge made an order 'apportioning alienations' under section 179 of the Maori Affairs Amendment Act 1967 but that section gave the Court jurisdiction only in relation to partition orders, not amalgamation orders. The final claim was that the owners had not been given an adequate opportunity to be heard on whether or not they wanted their lands included in the amalgamation. They claimed that a breach of natural justice occurred when they were not given notice either of the application or of the hearing, and were not given other opportunities to be heard on the matter.<sup>343</sup>

None of the defendants filed any statements in defence, although Judge Gillanders Scott filed a memorandum regarding the issues, and none of the defendants wished to be heard at the hearings, preferring to abide by any Court decision.

---

<sup>340</sup> Richard Savage was a High Court judge from 1980 to 1986; see M. Lambert ed., *Who's Who in New Zealand*, 12<sup>th</sup> Edition, Auckland, Reed Books 1991, p. 559.

<sup>341</sup> Judgement and Reasons for Judgement of Savage J, 13 November 1984, p. 3, WMLC Current Files 45-198 v.1.

<sup>342</sup> Judgement of J. Savage p. 3.

<sup>343</sup> Judgement of J. Savage, pp. 3-4.

Judge Savage stated that he was 'satisfied' that the amalgamation and vesting orders that had been made were 'without jurisdiction'. He found this on the grounds that the Court was required to ensure that all owners have a 'reasonable opportunity to be heard on whether or not the amalgamation order should be made'. The breach of this requirement was found to be 'contrary to the rules of natural justice'.<sup>344</sup> He elucidated this by saying:

I think it is clear that Chief Judge Gillanders Scott was aware that there had been many discussions in relation to the lands in question by departmental field officers and, perhaps mistakenly, was under the impression that all those who were entitled to be heard were aware of what was intended and concurred.<sup>345</sup>

Hingston had submitted, and Savage accepted, that 'the Maori Land Court acted rather more informally than perhaps would be expected in other courts'. It was Hingston's contention that the Maori Land Court 'relied a good deal on the results of discussions by departmental officers in the field talking at meetings on maraes [sic]'.<sup>346</sup> Savage noted that Joyce, the solicitor appointed as an amicus curiae to the Court, had 'conceded in his submissions, that the Maori Land Court has the advantage of its particular and peculiar knowledge in the fields in which it exercises jurisdiction.'<sup>347</sup> It was Savage's view that 'what happened here, whatever be the reason or reasons for it, goes beyond what is permissible'.<sup>348</sup>

Savage also addressed the question of 'whether a failure to meet the requirements of natural justice amounts to a want of jurisdiction so as to make the decision of the Maori Land Court a nullity. The answer is clear: it does'.<sup>349</sup> He discussed the failure to ensure that all owners were notified:

The application, as already noted earlier, was made on the same day as it was granted 14 February 1972. There had no doubt been many discussions between some of the parties involved but with whom and between whom is by no means clear. An extract from the Whakatane General Minute Book vol 52 folio 175-176 contains the brief note "Meetings held. Final agreement on 13.2.72". There is no other relevant record that has been put before the Court despite, as Mr Joyce stated, careful enquiry having been made....[O]n the material before the Court it

---

<sup>344</sup> Judgement of J. Savage, pp. 8-9.

<sup>345</sup> Judgement of J. Savage, p.9.

<sup>346</sup> Judgement of J. Savage, p. 9.

<sup>347</sup> Judgement of J. Savage, p. 9.

<sup>348</sup> Judgement of J. Savage, pp. 9-10.

<sup>349</sup> Judgement of J. Savage, p. 10.



is clear that notice was not given to all affected parties and they were not given a reasonable opportunity to be heard...

I am satisfied there has here been a breach of natural justice. It follows that ... there should be an order quashing the orders of the Maori Land Court... It is worth noting that in fact the administrative officers of the Maori Land Court have, in effect, disregarded the order made on 24 February 1972. There will therefore be an order quashing the orders of the Maori Land Court.<sup>350</sup>

After the 1972 orders were quashed on 13 November 1984 by the High Court, a steering committee was set up to discuss how to best use the lands and what form the administration of the lands should take. A letter to the owners of the blocks involved gives a brief outline of the origins of the committee. The decision to establish the Tuawhenua Steering Committee was made at a meeting on 22 December 1984 at the Mataatua Marae in Ruatahuna.<sup>351</sup> The committee's purpose was to 'determine the sorts of developments that could proceed using the land', and to also 'establish a management structure and strategy for developments to occur, in line with the wishes of shareholders'.<sup>352</sup>

The Tuawhenua Steering Committee recommended that the original 44 blocks be joined with an additional four (although not amalgamated) and placed into a trust under section 438 of the Maori Affairs Act 1953. They felt that appointing the same trustees for all blocks would 'ensure co-operation between the owners of the 48 blocks'.<sup>353</sup> An application to the Maori Land Court was submitted and a preliminary hearing held on 30 October 1985. At this hearing Judge Hingston directed that 'the applicants should give to all beneficial owners whose addresses are known or can be ascertained from searches of the Maori Trustee's records, notice of the hearing and to accompany that notice with a covering letter setting out the purposes of the application'. They were also to put before the beneficial owners the proposal of amalgamation or aggregation of the blocks.<sup>354</sup> The letter further stated that they had been given to understand that 'the Court proposes to call forward in turn the owners of each of the 48 blocks to identify themselves as owners of that block and then to

---

<sup>350</sup> Judgement of J. Savage, pp. 13-14.

<sup>351</sup> Letter to the Owners of various blocks in Tuhoe Tuawhenua from Tuawhenua Steering Committee, February 1986, WMLC Current Files, 45-198 v.1.

<sup>352</sup> J.M. Doherty, Steering Committee Member, to W.N. Jaram, Director Maori Affairs Department, 7 March 1986, WMLC Current Files, 45-198 v.1.

<sup>353</sup> Letter to the Owners of various blocks in Tuhoe Tuawhenua from Tuawhenua Steering Committee, February 1986, WMLC Current Files, 45-198 v.1

hear their wishes in regard to the proposed trust and the appointment of trustees, also to hear their view in regard to amalgamation or aggregation'.<sup>355</sup>

The notice that was sent out to the owners stated that

The fundamental purposes of the constitution of the trust is to hold the people together with a common purpose; namely to secure their ancestral land, to discover and put into effect the most effective means of utilising the land for the benefit of the owners.<sup>356</sup>

The actual Court hearing took place over several occasions. The first hearing was held on 30 October 1985 and was held to determine the venue of the substantive hearing and the question of how adequate notice to owners was to be achieved.<sup>357</sup>

The venue decided upon was Mataatua Marae at Ruatahuna. As regards the issue of notification of owners, it was decided that the applicants would notify all beneficial owners of their application, and further that notice would be given in newspapers, and on Maori television and radio programmes and at the Auckland Tuhoe Tirahou Marae in Panmure.<sup>358</sup> The reason that the Court held a preliminary hearing to establish how owners would be notified was given by Judge Hingston who stated:

The High Court decision *Jennings & others v Scott* clearly indicates to this Court that there could be a problem in respect of notice to all the owners of the forty-eight blocks – in effect any owners who des [sic] not know about the Court hearing could attack the orders in the High Court.<sup>359</sup>

At the preliminary hearing, Timoti P McManus, a member of the Tuawhenua Steering Committee, stated that the Committee had 'to the best of our ability', examined the possibility of aggregating the lands but found that it would be 'unsatisfactory because too many people in the final block – we considered geographic groupings, hapu or whanau affiliation [sic] grouping, common land use grouping'.<sup>360</sup> In contrast, John Tahuri, who was not on the Steering Committee, said that having 48 separate trusts

---

<sup>354</sup> Letter to the Owners of various blocks in Tuhoe Tuawhenua from Tuawhenua Steering Committee, February 1986, WMLC Current Files, 45-198 v.1

<sup>355</sup> Letter to the Owners of various blocks in Tuhoe Tuawhenua from Tuawhenua Steering Committee, February 1986, WMLC Current Files, 45-198 v.1

<sup>356</sup> Notice of Maori Land Court Hearing for 21-23 April 1987 (draft), Waiariki Maori Land Court Current Files 45-198 v.1.

<sup>357</sup> Whakatane MB 58, 30 October 1985, folios 130-138.

<sup>358</sup> Whakatane MB 58, 30 October 1985, folios 136-138.

<sup>359</sup> Whakatane MB 58, 3 October 1985, folio 130.

<sup>360</sup> Whakatane MB 58, 30 October 1985, folio 132.

would be unwieldy and 'expensive to run'. He believed that the answer would be amalgamation.<sup>361</sup>

The next hearings on 3 April 1986 and on 14 April 1986, dealt with the issue of possible bias arising from Judge Hingston having acted as the solicitor for the Tuhoe Waikaremoana Trust Board both before and during the recent High Court hearings regarding the Tuhoe Tuawhenua lands.<sup>362</sup> The lawyer for the applicants, Mr Phillips, stressed that his clients 'raise this not alleging bias but asking whether there is a possibility of bias'.<sup>363</sup> Hingston's reply or interim finding was that 'taking into account the authorities herein referred to and looking at the facts I am at a loss in finding bias'. He stated that he found this particularly in light of the fact that no-one had alleged actual examples of bias.<sup>364</sup> The fact that Hingston assessed his own level of bias seems extraordinary; even though the applicants' lawyer stressed that they were not alleging actual bias but asking if it was a possibility. As it seems highly doubtful that Hingston would have replied that it was a possibility, the question of bias should have been examined by an impartial party.

The request that the Judge look at the issue of bias effectively delayed the hearings for these blocks because the Court decided that after this decision regarding his lack of bias, the applicant had to have the opportunity to appeal, and therefore the hearings could not continue 'until the appeal period has run'.<sup>365</sup> The hearings were delayed further by the information given to the Court that they could obtain a land-use report similar to the one produced for Tuhoe Kaaku, meaning that the Judge held over the sittings until after the report had been obtained.<sup>366</sup>

The Minutes for the final hearing from 21 to 23 April 1987 are very detailed. The Court heard submissions regarding the proposed trusts and then cross-examined the proposed trustees. Following that, each block was gone through so that owners from the land in question had the opportunity to state their preference as to whether or not they wanted their land vested in a trust and if so in what trust.<sup>367</sup> At the end of the

---

<sup>361</sup> Whakatane MB 58, 30 October 1985, folio 132.

<sup>362</sup> Whakatane MB 58, 3 April 1986, folios 140-146.

<sup>363</sup> Whakatane MB 58, 3 April 1986, folio 140.

<sup>364</sup> Whakatane MB 58, 14 April 1986, folio 144.

<sup>365</sup> Whakatane MB 58, 14 April 1986, folio 146.

<sup>366</sup> Whakatane MB 58, 15 August 1986, folio 148.

<sup>367</sup> Whakatane MB 58A, 21-23 April 1987, folios 1-94.

hearing Judge Hingston made a preliminary indication of where his decision would lie. He stated to the Court:

Firstly, I repeat the blocks where the owners present were not in complete agreement will not be dealt with in this decision.

Secondly, there are far too many trustees nominated

Thirdly, I accept the Tuhoe Waikaremoana Maori Trust Board as an alternative trustee for some of the blocks.

Fourthly, the Court will not include in this decision, blocks where there have been no owners appear in Court

Fifthly, insofar as the blocks that have requested that they not be included in their trust, the Court will accede to the owners' wishes.

....The reason I am not prepared to force owners into either of the proposed trusts, either the owner trustees trust or under the Tuhoe Waikaremoana Maori Trust Board though the law allows me to, is because, taking into account the importance of these lands and the recent history of disagreement and High Court proceedings, forcing people or blocks into trusts could create further problems and even result in another High Court case. It could cause further division of Ngai Tuhoe.<sup>368</sup>

The judgement was reserved for written submissions to be given to the Court, and a final sitting was held on 20 November 1987 at which Hingston gave his directions. He answered some of the concerns raised in the submissions, namely the submission from a Mr Ingram that 'where a large majority favour trusteeship, the Court should make the orders'. Hingston stated that although he was 'sympathetic' to this viewpoint he 'generally consider[ed] it unwise, in view of the past problems of these lands, to force opposing owners into trusts they do not want and I believe most of the blocks in this category must be given time to reach a consensus'.<sup>369</sup> This was also his view during the substantive hearing. He stated that he believed it was 'the kaupapa of the whole application that there must be consensus'.<sup>370</sup>

The other matter raised by the written submissions was the nature of trustees and the Court decision as to these. Hingston was rather scathing of the general quality of those individuals nominated as trustees. He stated that 'The fact that one of those, accepted by the Court, gave evidence that moneys borrowed should be secured against fresh air and fresh water and not the land, indicates how stretched the Court

---

<sup>368</sup> Whakatane MB 58, 20 November 1987, folios. 154-156.

<sup>369</sup> Whakatane MB 58, 20 November 1987, folio 158.

<sup>370</sup> Whakatane MB 58A, 23 April 1987, folio 63.

was'.<sup>371</sup> Hingston went on to say that the examination of nominated trustees in the Court had been 'revealing'. He argued that many of the proposed trustees were simply unsuited for the position. He stated that

Only one proposed trustee demonstrated a reasonable knowledge of the lands concerned, many had no experience administratively or commercially and were effectively "long" on ideals but "short" in the qualities needed to properly carry out the proposed trusteeship.<sup>372</sup>

Regardless of this, Hingston had appointed all trustees nominated and approved by owners in those blocks which had opted for owner trusteeship.<sup>373</sup> In his submission, Ingram had objected to the inclusion of the Tuhoe Waikaremoana Maori Trust Board as a trustee in some blocks. Hingston pointed out that this was done only at the request of the owners, who had been given the opportunity to express their preferences. Ingram's objection that the Board was not formally represented at the hearing was rebutted by the Judge who stated that representation was not a prerequisite for vesting lands. Ingram claimed that the owners had not been given prior notice before the hearing that the Board might become a trustee, but the Court noted that neither had they been given notice as to who the owner trustees were going to be.<sup>374</sup> The following table shows which blocks received which orders.

**Table 1: Orders placed on Tuhoe Tuawhenua Lands 1987<sup>375</sup>**

No Orders Given	Vested in Tuhoe Waikaremoana Maori Trust Board	Vested in Owner Trustees
Pukioire	Mangapai	Te Huia
Umukahawai A	Te Ti T	Apitihana A
Te Maiora	Ahiherua	Apitihana T
Maramataupiri	Pawharaputako T	Apitihana X
Mourea T	Te Roto	Apitihana Y
Oraukura	Taumaha B2T	Houhi
Pamatanga B	Tiritiri	Taumaha B4T
Papuera A	Wharetangata blocks	Taumaha A1T
Ruahine		Waituhi
Tahuaroa T		Umukahawai B
Taumaha B3		Tieke
Tutu		Heipipi
Whakapou		Ohau
Whakatau		Okete
Te Whatumawaki		Paripari

<sup>371</sup> Whakatane MB 58, 20 November 1987, folio 158.

<sup>372</sup> Whakatane MB 58, 20 November 1987, folio 158.

<sup>373</sup> Whakatane MB 58, 20 November 1987, folio 160.

<sup>374</sup> Whakatane MB 58, 20 November 1987, folio 160-162.

<sup>375</sup> Whakatane MB 58, 20 November 1987.

		Te Kopua
		Kakanui T
		Hauwai
		Taumapou
		Kiha T
		Kopuhuia 2
		Hiwiotewera T
		Parekaeaea T
		Tongariro No.1
		Wharekakaho T
		Rakitehou blocks

376

The owner trustees were Mac Temara, Ron Tahī, Tony Herewini, Koratau Tamiana, Georgina Harvey, Tim McManus and James Edward Doherty. The blocks vested in the Trust Board were to be known as The Tuhoe Tuawhenua Trust and those vested in the owner trustees were to be known as the Tuhoe Tuawhenua B Trust.<sup>377</sup>

#### ***5.4: Issues Arising***

If owner dissatisfaction overturned the Tuawhenua amalgamation order, why did it not overturn the other three orders? As they were heard and the orders were made for all four blocks on the same day, and applied for by the same people, it becomes questionable as to on what grounds the other three titles were allowed to stand. They could have only been overturned if they were taken to the High Court. Since they were not, it seems that the owners involved in those blocks were substantially approving of the process of amalgamation in their particular case.

Protest against placing lands into the amalgamation scheme generally came after the fact, which is symptomatic of the confusion surrounding the process and the title status. Most of the protests or queries came when the owners of a previous land block desired to do something with that land such as leasing or developing in some way and were informed that they could not because the land was subject to amalgamation. The appeals were, on the whole, dealt with fairly but the delay of years while things were sorted out led to further frustrations and obstacles to land development. When owners wrote or came in to the office to ask about their lands and to inform the Court staff that they did not want their lands amalgamated, they were, on the whole, told that they

<sup>376</sup> Whakatane MB 58, 2 February 1988, folio 180.

<sup>377</sup> Whakatane MB 58, 2 February 1988, folio 180.

could have the lands excluded. This, unfortunately, was not accurate – for reasons explored in the previous chapter.

The Tuhoe Tuawhenua Trust hearing shows how the Court was attempting to honour the wishes of the owners by placing the lands in trusts nominated by the owners or in the Tuhoe Waikaremoana Maori Trust Board when the owners asked for that. Judge Hingston also refrained from vesting any land in a trust or making any order for it if the owners were not present at Court and if they had not made their wishes known. This was a philosophy the original hearing should have followed.

## **Chapter Six: Summary and Conclusions**

There seem to be two major issues related to the amalgamation of Urewera lands. Firstly, there is the simple failure of the system and the staff to operate effectively. This ineptitude gave rise to a great deal of confusion. The second issue is the fact that the majority of owners missed out on any meaningful consultation once the amalgamation process began primarily because it was easier for Maori Land Court staff and other departmental officials to work through the Trust Board rather than conduct discussions with all owners. Although there was nearly unanimous support for the proposals presented to Duncan MacIntyre at Ruatahuna in 1971, including that for amalgamation, both the failure of the court staff to action the amalgamation orders and the inadequate consultation with the majority of owners during the amalgamation process after 1972, had some adverse impacts on the beneficial owners of the lands.

### ***6.1: End State of the Lands***

Although the four amalgamated titles began in the same way, with the same people placing the applications and for the same reasons, they ended up with very different histories and administrations. Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe were relatively straightforward amalgamations. The most difficulty arising with Te Manawa-o-Tuhoe was over the proposed exchange of lands with the Crown. The confused state of the titles affected both these blocks, but on the whole the amalgamation process for these two was finished by about 1975.

Tuhoe Kaaku and Tuhoe Tuawhenua were rather different. Tuhoe Tuawhenua ended up in the High Court where Judge Savage quashed the 1972 orders of the Maori Land Court amalgamating the titles. The lands involved then went before the Maori Land Court in 1987 to hear a trust application; Judge Hingston placed some of the blocks into the Tuhoe Tuawhenua Trust and some into the Tuhoe Waikaremoana Maori Trust Board, and still others were left alone (since the owners did not show up to put their wishes forward). While this was going on, there were several requests for Tuhoe Kaaku to be re-examined by the Maori Land Court as some owners wanted to have their lands excluded. It was decided to wait until after the High Court hearing to hear Tuhoe Kaaku, and in the end these blocks did not come before the Maori Land Court for rehearing until 1995. At this hearing Judge Hingston aggregated 21 blocks into three groups. The Court ruled that the Trust Board would act as custodial trustee



while owners became Responsible Trustees. The Court dismissed the application for rehearing but 'of its own motion', gave orders for partitions and aggregation orders.

## ***6.2: Origins of the Amalgamation***

### **6.2.1: Who Initiated the Amalgamation Applications?**

From the available documents it seems quite clear that the initiative to apply for Urewera lands to be amalgamated came from the dissatisfaction felt by Urewera Maori at the fragmented and uneconomic nature of their remaining lands. While determined to keep the lands, it was recognised that they would need to generate income. Given the fragmented nature of ownership, it was believed that centralising administration and centralising ownership via amalgamation and vesting in a trust were the most useful way to develop the land.

It is unclear to what extent other forms of development were discussed and dismissed, and to what extent these matters were discussed with all owners. This is something on which those involved in at the time (Trust Board and Steering Committee members and general owners) can shed some light. The initial drive for amalgamation came from the drive to utilise some lands for forestry purposes, and it could well be that this initial goal overrode other developmental plans. Other lands were subsequently drawn into amalgamation to provide a centralised ownership and administration with which to develop the land.

The applications for amalgamation were submitted by John Rangihau and Piki McGarvey, both of Tuhoe and both in employment in sectors of the Department of Maori Affairs. The nature of bureaucracy being what it is, it is perhaps natural that Maori Land Court staff were happy to communicate with these representatives of Tuhoe and Urewera Maori without making the effort to ascertain the wishes of the multitude of owners who were largely invisible in the amalgamation process.

Amalgamation may have been instigated by some Urewera Maori, but it was encouraged and facilitated by general Maori Land Court staff and Maori Affairs officials, particularly the Deputy Registrar and the Title Improvements Officer.

### **6.2.2: Role of the Crown**

As the move towards amalgamation in the Urewera came from some Urewera Maori, it can be argued that at a time when there was a great need to develop the land to

provide a good income and a future for the beneficial owners, the option of amalgamation seemed to provide the best means of centralising authority over the lands in order to manage it effectively. The Crown could be held to be responsible for the fragmentation of land by the Maori Land Court and its predecessors (including the Urewera Consolidation), for the associated costs borne by Urewera Maori, and for the need to amalgamate land, removing the fragmented divisions, to establish 'the effective and profitable use and the efficient administration of their land'.<sup>378</sup> The Title Improvement Officer's role, as laid down by legislation, was a significant one in the amalgamation process. However, the primary role of the Title Improvement officer involved in the Urewera Amalgamations was that of facilitator rather than instigator. Devcich was at times determined to contact as many owners as possible and to carry out ground appraisals. He also put forward arguments to achieve a more favourable valuation of the lands in the titles. At other times, it appears that he was content to deal with officials from the Trust Board, or to follow the departmental line.

Although granted powers of investigation, the Court and departmental staff seem to have been content to let the Trust Board Steering Committee take prime responsibility for contacting and consulting the owners regarding the proposed applications for amalgamation. People associated with the Trust Board were employed in the Maori Affairs Department, for instance John Rangihau and Piki McGarvey who were both on the Trust Board Planning Committee, but it seems that although these positions gave them a certain amount of insider authority, they encouraged and participated in the amalgamations outside of their departmental roles as members of Tuhoe, working for what they believed were the best interests of their people.

### **6.2.3: Role of the Trusts**

In the case of the amalgamation of Urewera land, the Court appears to have assumed that owner approval had been obtained for the selection of the Tuhoe Waikaremoana Maori Trust Board to act as responsible trustees for the amalgamated blocks. The Trust Board was not granted a great deal of assistance in the performance of their duties and responsibilities. The Trust Board was expected to keep hold of the land for the benefit of future generations, but also to ensure that often landlocked and isolated areas became economically viable and able to provide Urewera Maori with a regular

---

<sup>378</sup> Communication with Tama Nikora, Secretary Tuhoe Waikaremoana Maori Trust Board, 21 June

income. The Trust Board was supposed to promote the effective use of Maori land in the interest of the owners. Without capital, and without certainty of titles, it was very difficult for the Trust Board to act in any formal manner to achieve these expectations early in the history of the amalgamated blocks.

As far as the role of the Trust Board in moving the amalgamation along is concerned, the Board was acting on behalf of Tuhoe Maori with the intention of utilising the land in the best possible manner. Meetings were held with owners to discuss these matters, and the Board became the go-between for many of the owners and the Maori Land Court.

### ***6.3: The Maori Affairs Amendment Act 1967***

This Act granted the Maori Land Court judges and officers a great deal of discretion in the exercise of their powers or duties. Provisions for the Judge to override the owners if he believed it was in their best interests, and provisions for the Title Improvement Officers to instigate applications affecting the lands if he deemed it 'necessary and desirable', did not act to protect the interests of the owners. This is particularly so since the statute's protective nature is limited by qualifiers such as consultation by Title Improvement Officers with owners where 'conveniently practicable', and owners having to prove that amalgamation would entail 'substantial hardship' to have their lands excluded. Even the selection of trustees was qualified by the fact that although owners could volunteer their opinion of a candidate for trustee, whether or not they approved of them did not necessarily have any sway with the Court, which could appoint trustees on its own motion and over the disapproval of owners. And although owners had a small chance of swaying the Court by expressing their opinion of a proposed trustee, they held no power to challenge or have dismissed the actual vesting of land in a trustee.

The Act did not guarantee or require a high level of consultation with owners whose lands were subject to the provisions contained within it. There was no requirement for there to be a majority of owners present at the Court when the application was heard, neither was there any provision for a systematic notification of owners whose land was scheduled for hearing. There were no sections in this act which safeguarded the rights of the majority of owners.

## ***6.4: Procedural Failings of the Maori Land Court***

### **6.4.1: Notification and Consultation with Owners**

There was a notable failure on the part of the Maori Land Court to ensure that owners had been both adequately notified and adequately consulted regarding the amalgamation of their lands. The officers of the Court and of the Maori Affairs Department seemed content to deal with the Trust Board and to request them to ensure that all owners had been contacted. Regardless of how this was achieved (and with few resources it was not probably very possible for the Trust Board to do so), it was, arguably, the role of the Court, not the Trust Board, to contact owners and investigate the land, particularly as it was up to the Court to ultimately decide the fate of the lands depending on its own assessment that adequate consultation had taken place. The legislation, while qualified and limited, did provide for investigative duties of Crown officials, and it is unclear from the records exactly how much of that investigation was carried out.

It is understandable that without enough addresses for owners, it was hard for the Court staff to send out notification to all owners, but rather than passing the job to the Trust Board to do, they should have enlisted the assistance of the board to act in much the same way as Tuhoe no doubt saw the committee they referred to in the submission to the Minister of Maori Affairs, Duncan MacIntyre in 1971 – they wanted the Title Improvement Officer to work in with a committee.

Meetings were held and hearing dates were published in notices. Particularly after receiving enquiries from owners who clearly had no idea what had happened to their lands, the Court did attempt to get as many owners as possible to attend hui and hearings. Unfortunately, when only a fraction of the owners attended, the meetings were still seen as successful. In this instance, it would have been very helpful if funds had been allocated for a staff member, most likely the Title Improvement Officer, to go around the Urewera owners to discuss with them what they wanted done with their lands. Instead, the Court accepted the poor turn outs and acted on the expressed wishes of those owners who were aware of what was occurring.

The very fact that many owners wrote into the Court to enquire about the status of their lands, unaware that they had been included in the amalgamations, demonstrates

that the notification and consultation part of the Maori Land Court's duties was deficient indeed.

#### **6.4.2: Valuations**

The valuations used for the amalgamation process were subject to much debate, but it was finally decided by J.E. Cater, the Registrar, to use the earlier 1969 values, contrary to the advice proffered by the Title Improvement Officer, J.V. Devcich, and the stated wishes of the owners. The tables in the appendix show very clearly the huge difference for some blocks in the 1973 estimated valuations compared to the 1969 figures.

The delay in finalising valuations, because of the slowness in deciding which valuations to use, retarded the finalisation of the amalgamated titles, even regardless of the confusion surrounding the titles. This was because without complete valuations of shares in the old blocks, it was impossible to calculate an owner's interest in the new amalgamated titles.

#### **6.4.3: Title Confusion**

A great deal of confusion arose around the status of the titles of the amalgamated blocks. This came about by a simple but very serious error by Maori Land Court staff whereby the section 435 orders made in 1972 creating Tuhoe Tuawhenua, Tuhoe Kaaku, Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe were not carried out. This failure to carry out the orders involved not removing the old land title certificates from the binders and replacing them with amalgamated ones. Combined with the confusion about the adjournment of the application for rehearing, which was transformed somehow into a belief that the application for actual amalgamation had been adjourned when it had not, this error led to Court staff, and thus everyone else, believing that the amalgamation was yet to take place.

As many owners had not been adequately notified regarding the impact on their lands of amalgamation, the Land Court received many enquiries regarding the status of various land blocks. When these owners requested that their lands be excluded from the amalgamation, they were assured that the amalgamation had not yet taken place and they would have the option to put their case for exclusion in front of the Court.

Some blocks continued to have orders made regarding them, such as partition orders and leases. When finally the error was realised and actions taken to resolve the issue, these subsequent orders proved problematic; the question arose of how to deal with these orders which should never have been made in a manner which did not disadvantage the owners of the blocks. The answer was to get rid of the original order so that all subsequent orders would stand, and then to either re-amalgamate, aggregate or otherwise establish titles for development.

### ***6.5: Protests and Appeals***

An important point is the question of the validity of the amalgamated titles of Tuhoe Kaaku, Te Pae-o-Tuhoe, and Te Manawa-o-Tuhoe since the High Court quashed the order created the amalgamated block of Tuhoe Tuawhenua. However, apart from Tuhoe Kaaku, the rehearing of which was heard at the very end of the period covered by this report, it does not appear that those whose lands were affected by the amalgamation were very much against the process whereby it had occurred.

Protest against placing lands into the amalgamation scheme generally came after it had happened, and most of the protests or queries came when the owners of a previous land block desired to do something with that land which was unable to be done once the land was subject to the amalgamation.

The Tuhoe Kaaku rehearing shows how the Court was attempting to honour the wishes of the owners by placing the lands in trusts nominated by the owners or in the Tuhoe Waikaremoana Maori Trust Board when the owners asked for that. Judge Hingston also refrained from vesting any land in a trust or making any order for it if the owners were not present at Court and if they had not made their wishes known.

The amalgamation of Urewera lands in the early 1970s was intended to provide the owners of these lands with more economical land holdings in a form easier to administrate. The process of amalgamation was not as successful as those behind it could have hoped. A history of poor notification of those people most intimately concerned, the owners of the lands, joined with an administrative breakdown in the Maori Land Court's filing of the amalgamation and vesting orders, and created a confused situation which remained unresolved until many years later.

Amalgamation of Urewera Lands 1960s-1980s

## Appendices:

### *Appendix One: Time Line*

- 23 April 1971 Hui at Ruatahuna, Tuhoe meet with Duncan MacIntyre, Minister of Maori Affairs.
- 14 February 1972: 160 Blocks amalgamated by the Maori Land Court into Tuhoe Kaaku, Tuhoe Tuawhenua, Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe, and directed to be vested in the Tuhoe Waikaremoana Maori Trust Board.
- 8 March 1972: Rehearing for purposes of clarifying valuations for the amalgamated titles proposed and adjourned indefinitely.
- September 1974: meeting of owners held to discuss exchange of lands in Te Manawa-o-Tuhoe and Te Pae-o-Tuhoe
- 1974 Court Hearing: special sitting held at Ruatoki for Crown's proposals of exchanges with Maori land re Te Pae-o-Tuhoe and Te Manawa-o-Tuhoe.
- 4 August 1979: Terms of Trust re Tuhoe Tuawhenua declared at Special Sitting of the Maori Land Court.
- November 1979: Gillanders Scott brought to attention the fact that Court staff had not executed the section 435 orders.
- November 1979: Statement of Claim submitted by Noema and others re problems with titles in Tuhoe Tuawhenua
- 1980 Report of the Royal Commission into Maori Land Courts
- 1981: Claimants asked High Court to quash 1972 amalgamation order for Tuhoe Tuawhenua
- 1984: Application for review of Tuhoe Tuawhenua heard in High Court. November 1984 Judge Savage found in favour of plaintiffs and quashed the orders of the Maori Land Court.
- December 1984: meeting of owners set up Steering Committee for Tuhoe Tuawhenua.
- March 1985 Judge Norman Smith commented on trust proposals of Tuhoe Tuawhenua Steering Committee.



Amalgamation of Urewera Lands 1960s-1980s

May 1985	Tuhoe Tuawhenua Steering Committee met with Minister of Maori Affairs
May/June 1985	Tuhoe Tuawhenua Steering Committee and owners met to discuss how to use land.
October 1985	meeting held to decide Trust and aggregation for Tuhoe Tuawhenua lands
October 1985	Maori Land Court interim hearing re where to hear the Trust application for Tuhoe Tuawhenua
April 1986	Tuhoe Tuawhenua Steering Committee met with the Minister of Maori Affairs
April 1986	Maori Land Court hearing on issue of bias re Hingston as judge for Tuhoe Tuawhenua
August 1986	Department of Lands and Survey requested to provide land utilisation report for Tuhoe Tuawhenua which was completed in March 1987
April 1987	application for trust for Tuhoe Tuawhenua to be set up, heard by Maori Land Court (WHKMB58a)
November 1987:	final decision from Judge Hingston re trust proposal for Tuhoe Tuawhenua. Land vested in various trusts, some in Tuhoe Waikaremoana Maori Trust Board and some in Tuhoe Tuawhenua Trust.
July 1991:	hearing held to discuss possible rehearing of Tuhoe Kaaku
March 1995:	Rehearing of Tuhoe Kaaku and reallocation of lands.

***Appendix Two: Tables showing Previous Blocks involved in the Amalgamation***

**Table 2.1: Tuhoe Tuawhenua Former Blocks<sup>379</sup>**

<b>Block</b>	<b>Area in acres. roods. perches.</b>
Ahiherua	2237.0.00
Apitihana T	4097.2.27
Apitihana X	2028.0.00
Apitihana Y	845.0.00
Hauwai	602.2.00
Heipipi	455.0.00
Hiwiotewera T	3530.0.00
Te Huia	882.1.00
Kakanui T	398.0.02.4
Kiha T	250.3.14
Te Kopua	1013.0.00
Kopuhaia No.2	369.0.16
Te Maiora	988.3.03
Mangapai	1310.0.00
Maurea T	665.0.21.8
Ohau	927.0.00
Okete	171.2.00
Oraukura	419.2.00
Pamatanga B	400.1.05
Papuera A	1373.0.26
Parekaeaea T	579.1.05
Pawharaputoko T	1141.2.10
Pukiore	760.0.00
Rakitehau	614.0.04
Te Roto	2498.0.00
Ruahine	1234.1.16
Tahuaroa T	1250.1.00
Taumaha A1T	300.0.00
Taumaha B2T	740.0.00
Taumaha B3	153.0.20
Taumaha B4T	55.0.00
Taumapou	178.0.00
Tieke	290.0.00
Tiritiri	937.0.00
Tongoriro 1	459.2.00
Umukahawai B	986.1.23
Tutu	326.2.10
Waituhi	1120.0.00
Whakapau	976.2.00
Whakatau	906.0.00
Wharekakaho	436.0.00
Wharetangata	430.0.00

<sup>379</sup> WMLC Current File 45-198 v.1 Tuhoe Tuawhenua.

Whatuamawaki	415.0.00
--------------	----------

**Table 2.2: Tuhoe Kaaku Former Blocks<sup>380</sup>**

Block	Area in acres. roods. perches.
Ahirau	187.0.00
Hapenui	97.2.26
Te Kaawa No. 3	92.0.13
Kotipu	106.0.00
Nahunahu	35.2.00
Omaruwharekura A	42.3.29
Omaruwharekura B	84.2.22
Opei A	85.2.05
Opei B	760.1.35
Oueariu	289.0.00
Pahekeheke	139.3.10
Panewhero	164.3.08
Papaohaki No. 1	90.3.29
Papaohaki No. 2	87.2.01
Te Rere	80.2.005
Tarahore No. 1	17.1.27
Tarahore No. 2	942.2.13
Te Tauratepukuatua	290.0.00
Tawhana No. 2 & 3	135.3.11
Tawhana No. 4, 5, & 6	597.0.28
Whakarae B	194.2.20

**Table 2.3: Te Manawa-o-Tuhoe Former Blocks<sup>381</sup>**

Block	Area in acres. roods. perches.
Ruatoki B29	75.0.00
Ruatoki C30B	122.0.30
Ruatoki C31B	53.2.04
Ruatoki C47	699.2.00
Ruatoki C49	195.3.00
Ruatoki C50	231.1.20
Ruatoki C51	156.2.23
Ruatoki C52	348.0.00
Ruatoki C53	202.0.00
Ruatoki C54	40.0.00
Ruatoki C55	49.0.00
Ruatoki C57	157.2.00
Ruatoki C58	534.0.25
Ruatoki C59	598.3.26

<sup>380</sup> WMLC Current File 45-200 v.1 Tuhoe Kaaku.<sup>381</sup> WMLC Current File 45-189 Te Manawa-o-Tuhoe.

Amalgamation of Urewera Lands 1960s-1980s

Ruatoki C60	403.1.00
Ruatoki C62	272.2.00
Ruatoki C63	1935.3.00
Ruatoki B75	324.2.07
Kawekawe	264.0.00
Mokorua	471.0.00
Onapu	229.2.00
Owhakatoro No.7	272.0.19
Papapounamu	1028.3.00
Pukehou	951.0.00
Tapapakiekie	1231.0.00
Tawhia	501.3.00
Tukutoromiro	1875.0.00
Ruatoki B58	198.0.00
Ruatoki B64	303.0.22
Ruatoki B72	135.1.33
Ruatoki C9	116.0.00
Ruatoki C26	76.1.00
Ruatoki C28	72.0.00
Ruatoki C37	280.0.00
Ruatoki C56	131.2.22
Ruatoki C64	50.0.00
Ruatoki D1	214.0.30
Ruatoki D2	215.0.00
Ruatoki D3	264.1.28
Ruatoki D4	964.0.00
Ruatoki D5	408.3.00
Ruatoki D6	431.0.00
Ngautoka	159.0.00
Owhakatoro No. 5	331.0.00
Owhakatoro No. 6	103.2.00
Te Pohue No. 2	149.0.00
Poutere	162.0.00
Puketapu No. 2	40.1.21
Oputea A	458.2.32
Oputea B2	392.1.09
Oputea C	1234.3.26
Waiohau B12B2	435.2.00
Waiohau B10	432.0.00
Waiohau B1	123.1.25
Waiohau B2	82.3.07
Waiohau B4	113.0.00
Waiohau C29	14.1.00
Waiohau B6	173.1.32
Waiohau B14	143.0.00
Waiohau B8	279.0.16
Waiohau B9A	221.0.00
Waiohau C26 pt 1	0.0.30
Waiohau C27	118.3.30

**Table 2.4: Te Pae-o-Tuhoe Former Blocks**<sup>382</sup>

<b>Block</b>	<b>Area in acres. roods. perches.</b>
Hakorae	471.0.00
Hokowhituatu	599.2.20
Te Honoi	1536.0.00
Te Kiwi	438.0.00
Kohai	1003.0.00
Korouanui	154.2.00
Marumaru	651.0.00
Moerangi	879.0.00
Ngamahanga	1011.0.00
Onanahaea	639.0.00
Opoukehu	244.0.00
Otanenui	945.0.00
Owaka	458.0.00
Pakihi	548.0.00
Patiti	1890.0.00
Te Puhi	721.0.00
Pukiekie	147.0.00
Te Putereopotaka	837.0.00
Rangatepihi	409.0.00
Te Rara	195.0.00
Rewatu	646.0.00
Tapuiwahine	871.2.30
Te Tewhatewha	215.0.00
Toromiro	207.0.00
Totaraamu	444.2.00
Tunanui	791.0.00
Te Uruohapopo	411.0.00
Te Uwira	1290.0.00
Waiharuru	1757.0.00
Whakarimarima	203.0.00
Wharekokopu	1043.0.00
Wharepakaru 1	605.3.13
Wharepakaru 2	288.0.00

<sup>382</sup> WMLC Current File 45-199 Te Pae-o-Tuhoe.

*Appendix Three: Tables Showing Valuations for Amalgamated Blocks***Table 3.1: Te Pae-o-Tuhoe Valuations 1969<sup>383</sup>**

Block	Date	Area a.r.p	No. of Owners	Total Shares	Land Value	Date of Value
Hakorae	16.11.22	471.0.00	7	117765	\$360.00	1.02.69
Hokowhituatu	16.11.22	599.2.20	21	214187	\$480.00	1.02.69
Te Honoi	16.11.22	1536.0.00	30	285591	\$620.00	1.02.69
Te Kiwi	16.11.22	438.0.00	15	935505	\$220.00	1.02.69
Kohai	16.11.22	1003.0.00	53	248213	\$650.00	1.02.69
Korouanui	16.11.22	154.2.00			\$160.00	1.02.69
Marumarū	16.11.22	651.0.00	30	121286	\$330.00	1.02.69
Moerangi	16.11.22	879.0.00	26	187664	\$440.00	1.02.69
Ngamahanga	16.11.22	1011.0.00	14	215584	\$300.00	1.02.69
Onanahaea	16.11.22	639.0.00	29	159456	\$200.00	1.02.69
Opukehu	16.11.22	244.0.00	9	61092	\$200.00	1.02.69
Otanenui	22.11.22	945.0.00	15	326961	\$280.00	1.02.69
Owaka	22.11.22	458.0.00	17	103647	\$340.00	1.02.69
Pakihi	22.11.22	548.0.00	22	117816	\$280.00	1.02.69
Patiti	22.11.22	1890.0.00	10	403201	\$950.00	1.02.69
Te Puihi	22.11.22	721.0.00	18	153739	\$360.00	1.02.69
Pukiekie	22.11.22	147.0.00	7	37482	\$250.00	1.02.69
Te Putereopotaka	22.11.22	837.0.00	44	172279	\$420.00	1.02.69
Rangatepiihi	22.11.22	409.0.00	71	101127	\$370.00	1.02.69
Te Rara	22.11.22	195.0.00	10	48635	\$450.00	1.02.69
Rewatu	22.11.22	646.0.00	17	145478	\$320.00	1.02.69
Tapuiwahine	22.11.22	871.2.30	28	871.6875	\$2400.00	1.02.69
Te Tewhatewha	22.11.22	215.0.00	45	107929	\$220.00	1.02.69
Toromiro	16.11.22	207.0.00	6	44303	\$200.00	1.02.69
Totaraamu	16.11.22	444.2.00	35	102688	\$220.00	1.02.69
Tunanui	16.11.22	791.0.00	18	168874	\$400.00	1.02.69
Te Uruohapopo	16.11.22	411.0.00	10	68924	\$200.00	1.02.69
Te Uwira	16.11.22	1290.0.00	18	322463	\$400.00	1.02.69
Waiharuru	16.11.22	1757.0.00	37	523231	\$530.00	1.02.69
Whakarimarima	16.11.22	203.0.00	14	74093	\$160.00	1.02.69
Wharekokopu	16.11.22	1043.0.00	101	260745	\$420.00	1.02.69
Wharepakaru 1	20.06.35	605.3.13	9	149594	\$360.00	1.02.69
Wharepakaru 2	20.06.35	288.0.00	11	71156	\$170.00	1.02.69

<sup>383</sup> Te Pae-o-Tuhoe Valuations, WMLC Current File 45-199 Te Pae-o-Tuhoe.

**Table 3.2: Te Pae-o-Tuhoe Valuations 1973<sup>384</sup>**

<b>Block</b>	<b>Area a.r.p</b>	<b>Land Value</b>	<b>Value per Acre</b>	<b>Date of Value</b>
Hakorae	471.0.00	\$940.00	\$1.99	17.05.73
Hokowhituatu	599.2.20	\$1,130.00	\$1.88	17.05.73
Te Hono	1536.0.00	\$2,480.00	\$1.61	17.05.73
Te Kiwi	438.0.00	\$660.00	\$1.51	17.05.73
Kohai	1003.0.00	\$1,100.00	\$1.10	17.05.73
Korouanui	154.2.00	\$220.00	\$1.42	17.05.73
Marumaruru	651.0.00	\$1,300.00	\$2.00	17.05.73
Moerangi	879.0.00	\$2,200.00	\$2.50	17.05.73
Ngamahanga	1011.0.00	\$2,000.00	\$1.98	17.05.73
Onanahaea	639.0.00	\$960.00	\$1.50	17.05.73
Opoukehu	244.0.00	\$250.00	\$1.02	17.05.73
Otanenui	945.0.00	\$1,900.00	\$2.01	17.05.73
Owaka	458.0.00	\$460.00	\$1.00	17.05.73
Pakihi	548.0.00	\$550.00	\$1.00	17.05.73
Patiti	1890.0.00	\$3,200.00	\$1.69	17.05.73
Te Puhi	721.0.00	\$700.00	\$0.97	17.05.73
Pukiekie	147.0.00	\$1,040.00	\$7.07	17.05.73
Te Putereopotaka	837.0.00	\$2,500.00	\$2.99	17.05.73
Rangatepihi	409.0.00	\$880.00	\$2.15	17.05.73
Te Rara	195.0.00	\$200.00	\$1.02	17.05.73
Rewatu	646.0.00	\$1,300.00	\$2.01	17.05.73
Tapuiwahine	871.2.30	\$3,850.00	\$4.42	17.05.73
Te Tewhatewha	215.0.00	\$430.00	\$2.00	17.05.73
Toromiro	207.0.00	\$400.00	\$1.93	17.05.73
Totaraamu	444.2.00	\$440.00	\$0.99	17.05.73
Tunanui	791.0.00	\$1,580.00	\$2.00	17.05.73
Te Uruohapopo	411.0.00	\$800.00	\$1.95	17.05.73
Te Uwira	1290.0.00	\$1,950.00	\$1.51	17.05.73
Waiharuru	1757.0.00	\$3,500.00	\$1.99	17.05.73
Whakarimarima	203.0.00	\$5,150.00	\$25.37	17.05.73
Wharekokopu	1043.0.00	\$1,560.00	\$1.11	17.05.73
Wharepakaru 1	605.3.13	\$1,200.00	\$1.98	17.05.73
Wharepakaru 2	288.0.00	\$580.00	\$2.01	17.05.73

<sup>384</sup> Te Pae-o-Tuhoe Valuations, WMLC Current File 45-199 Te Pae-o-Tuhoe.

**Table 3.3: Te Pae-o-Tuhoe Valuations Comparison 1969 and 1973.**<sup>385</sup>

<b>Block</b>	<b>Area a.r.p</b>	<b>Land Value as at 1.2.69</b>	<b>Land Value as at 17.5.73</b>
Hakorae	471.0.00	\$360.00	\$940.00
Hokowhituatu	599.2.20	\$480.00	\$1,130.00
Te Honoi	1536.0.00	\$620.00	\$2,480.00
Te Kiwi	438.0.00	\$220.00	\$660.00
Kohai	1003.0.00	\$650.00	\$1,100.00
Korouanui	154.2.00	\$160.00	\$220.00
Marumaru	651.0.00	\$330.00	\$1,300.00
Moerangi	879.0.00	\$440.00	\$2,200.00
Ngamahanga	1011.0.00	\$300.00	\$2,000.00
Onanahaea	639.0.00	\$200.00	\$960.00
Opukehu	244.0.00	\$200.00	\$250.00
Otanenui	945.0.00	\$280.00	\$1,900.00
Owaka	458.0.00	\$340.00	\$460.00
Pakihi	548.0.00	\$280.00	\$550.00
Patiti	1890.0.00	\$950.00	\$3,200.00
Te Puhi	721.0.00	\$360.00	\$700.00
Pukiekie	147.0.00	\$250.00	\$1,040.00
Te Putereopotaka	837.0.00	\$420.00	\$2,500.00
Rangatepiihi	409.0.00	\$370.00	\$880.00
Te Rara	195.0.00	\$450.00	\$200.00
Rewatu	646.0.00	\$320.00	\$1,300.00
Tapuiwahine	871.2.30	\$2,400.00	\$3,850.00
Te Tewhatewha	215.0.00	\$220.00	\$430.00
Toromiro	207.0.00	\$200.00	\$400.00
Totaraamu	444.2.00	\$220.00	\$440.00
Tunanui	791.0.00	\$400.00	\$1,580.00
Te Uruohapopo	411.0.00	\$200.00	\$800.00
Te Uwira	1290.0.00	\$400.00	\$1,950.00
Waiharuru	1757.0.00	\$530.00	\$3,500.00
Whakarimarima	203.0.00	\$160.00	\$5,150.00
Wharekokopu	1043.0.00	\$420.00	\$1,560.00
Wharepakaru 1	605.3.13	\$360.00	\$1,200.00
Wharepakaru 2	288.0.00	\$170.00	\$580.00

<sup>385</sup> Te Pae-o-Tuhoe Valuations, WMLC Current File 45-199 Te Pae-o-Tuhoe.



**Table 3.4: Tuhoe Kaaku Valuations 1973<sup>386</sup>**

Block	Area a.r.p	Land Value	Value per Acre	Date of Value
Ahirau	187.0.00	\$2,650.00	\$14.17	17.5.73
Hapenui	97.2.26	\$2,350.00	\$24.06	17.5.73
Te Kaawa No. 3	92.0.13	\$2,800.00	\$30.41	17.5.73
Kotipu	106.0.00	\$700.00	\$6.60	17.5.73
Nahunahu	35.2.00	\$400.00	\$1.70	17.5.73
Omaruwharekura A	42.3.29	\$5,000.00	\$116.46	17.5.73
Omaruwharekura B	84.2.22	\$4,050.00	\$47.85	17.5.73
Opei A	85.2.05	\$650.00	\$7.60	17.5.73
Opei B	760.1.35	\$5,000.00	\$6.57	17.5.73
Oueariu	289.0.00	\$900.00	\$3.11	17.5.73
Pahekeheke	139.3.10	\$1,000.00	\$7.15	17.5.73
Panewhero	164.3.08	\$1,100.00	\$6.67	17.5.73
Papaohaki No. 1	90.3.29	\$450.00	\$4.95	17.5.73
Papaohaki No. 2	87.2.01	\$360.00	\$4.11	17.5.73
Te Rere	80.2.005	\$1,500.00	\$18.62	17.5.73
Tarahore No. 1	17.1.27	\$400.00	\$2.30	17.5.73
Tarahore No. 2	942.2.13	\$1,200.00	\$1.27	17.5.73
Te Tauratepukuatua	290.0.00	\$580.00	\$2.00	17.5.73
Tawhana No. 2 & 3	135.3.11	\$120.00	\$0.88	17.5.73
Tawhana No. 4, 5, & 6	597.0.28	\$1,400.00	\$2.34	17.5.73
Whakarae B	194.2.20	\$1,200.00	\$6.17	17.5.73

<sup>386</sup> Tuhoe Kaaku Valuations, WMLC Current File 45-200 v.1 Tuhoe Kaaku

**Table 3.5: Tuhoe Tuawhenua Valuations 1973<sup>387</sup>**

Block	Area a.r.p.	Land Value	Value per Acre	Date of Value
Ahiherua	2,237.0.00	\$2,360.00	\$1.04	17.5.73
Apitihana T	4,097.2.27	\$1,150.00	\$0.28	17.5.73
Apitihana X	2,028.0.00	\$2,600.00	\$1.28	17.5.73
Apitihana Y	845.0.00	\$1,100.00	\$1.30	17.5.73
Hauwai	602.2.00	\$1,000.00	\$1.66	17.5.73
Heipipi	455.0.00	\$1,650.00	\$3.63	17.5.73
Hiwiotewera T	3,530.0.00	\$3,500.00	\$0.99	17.5.73
Te Huia	882.1.00	\$2,500.00	\$2.83	17.5.73
Kakanui T	398.0.02.4	\$720.00	\$0.80	17.5.73
Kiha T	250.3.14	\$500.00	\$1.99	17.5.73
Te Kopua	1013.0.00	\$1,400.00	\$1.38	17.5.73
Kopuhaia No.2	369.0.16	\$900.00	\$2.44	17.5.73
Te Maiora	988.3.03	\$2,450.00	\$2.48	17.5.73
Mangapai	1,310.0.00	\$2,600.00	\$1.98	17.5.73
Maurea T	665.0.21.8	\$2,150.00	\$3.28	17.5.73
Ohau	927.0.00	\$930.00	\$1.00	17.5.73
Okete	171.2.00	\$350.00	\$2.04	17.5.73
Oraukura	419.2.00	\$420.00	\$1.00	17.5.73
Pamatanga B	400.1.05	\$2,600.00	\$6.49	17.5.73
Papuera A	1,373.0.26	\$4,800.00	\$3.49	17.5.73
Parekaeaea T	579.1.05	\$1,700.00	\$2.93	17.5.73
Pawharaputoko T	1,141.2.10	\$1,000.00	\$0.87	17.5.73
Pukiore	760.0.00	\$1,700.00	\$2.24	17.5.73
Rakitehau	614.0.04	\$900.00	\$1.46	17.5.73
Te Roto	2,498.0.00	\$2,500.00	\$1.00	17.5.73
Ruahine	1,234.1.16	\$3,570.00	\$2.89	17.5.73
Tahuaroa T	1,250.1.00	\$2,700.00	\$2.16	17.5.73
Taumaha A1T	300.0.00	\$600.00	\$2.00	17.5.73
Taumaha B2T	740.0.00	\$1,480.00	\$2.00	17.5.73
Taumaha B3	153.0.20	\$400.00	\$2.61	17.5.73
Taumaha B4T	55.0.00	\$450.00	\$8.18	17.5.73
Taumapou	178.0.00	\$630.00	\$3.54	17.5.73
Tieke	290.0.00	\$300.00	\$1.03	17.5.73
Tiritiri	937.0.00	\$1,300.00	\$1.39	17.5.73
Tongoriro 1	459.2.00	\$900.00	\$1.96	17.5.73
Umukahawai B	986.1.23	\$2,250.00	\$2.28	17.5.73
Tutu	326.2.10	\$1,300.00	\$3.98	17.5.73
Waituhi	1,120.0.00	\$2,600.00	\$3.32	17.5.73
Whakapau	976.2.00	\$2,400.00	\$2.46	17.5.73
Whakatau	906.0.00	\$4,400.00	\$4.86	17.5.73
Wharekakaho	436.0.00	\$450.00	\$1.03	17.5.73
Wharetangata	430.0.00	\$450.00	\$1.05	17.5.73
Whatuamawaki	415.0.00	\$420.00	\$1.01	17.5.73

<sup>387</sup> Tuhoe Tuawhenua Valuations, WMLC Current File 45-198 v.1 Tuhoe Tuawhenua

**Table 3.6: Te Manawa-o-Tuhoe Valuations 1969<sup>388</sup>**

Block	Area a.r.p	Land Value	Date of Value
Ruatoki B29	75.0.00	\$370.00	1.2.69
Ruatoki C30B	122.0.30	\$1,050.00	1.2.69
Ruatoki C31B	53.2.04	\$530.00	1.2.69
Ruatoki C47	699.2.00	\$1,900.00	1.2.69
Ruatoki C49	195.3.00	\$200.00	1.2.69
Ruatoki C50	231.1.20	\$230.00	1.2.69
Ruatoki C51	156.2.23	\$160.00	1.2.69
Ruatoki C52	348.0.00	\$350.00	1.2.69
Ruatoki C53	202.0.00	\$600.00	1.2.69
Ruatoki C54	40.0.00	\$200.00	1.2.69
Ruatoki C55	49.0.00	\$250.00	1.2.69
Ruatoki C57	157.2.00	\$240.00	1.2.69
Ruatoki C58	534.0.25	\$800.00	1.2.69
Ruatoki C59	598.3.26	\$600.00	1.2.69
Ruatoki C60	403.1.00	\$400.00	1.2.69
Ruatoki C62	272.2.00	\$270.00	1.2.69
Ruatoki C63	1935.3.00	\$1,700.00	1.2.69
Ruatoki B75	324.2.07	\$240.00	1.2.69
Kawekawe	264.0.00	\$1,060.00	1.2.69
Mokorua	471.0.00	\$280.00	1.2.69
Onapu	229.2.00	\$230.00	1.2.69
Owhakatoro No.7	272.0.19	\$680.00	1.2.69
Papapounamu	1028.3.00	\$1,780.00	1.2.69
Pukehou	951.0.00	\$1,100.00	1.2.69
Tapapakiekie	1231.0.00	\$12,230.00	1.2.69
Tawhia	501.3.00	\$850.00	1.2.69
Tukutoromiro	1875.0.00	\$1,875.00	1.2.69
Ruatoki B58	198.0.00	\$1,500.00	1.2.69
Ruatoki B64	303.0.22	\$7,600.00	1.2.69
Ruatoki B72	135.1.33	\$2,130.00	1.2.69
Ruatoki C9	116.0.00	\$750.00	1.2.69
Ruatoki C26	76.1.00	\$240.00	1.2.69
Ruatoki C28	72.0.00	\$550.00	1.2.69
Ruatoki C56	131.2.22	\$280.00	1.2.69
Ruatoki C64	50.0.00	\$1,000.00	1.2.69
Ruatoki D1	214.0.30	\$1,280.00	1.2.69
Ruatoki D2	215.0.00	\$1,000.00	1.2.69
Ruatoki D3	264.1.28	\$800.00	1.2.69
Ruatoki D4	964.0.00	\$1,550.00	1.2.69
Ruatoki D5	408.3.00	\$800.00	1.2.69
Ruatoki D6	431.0.00	\$700.00	1.2.69
Owhakatoro No. 5	331.0.00	\$1,000.00	1.2.69
Owhakatoro No. 6	103.2.00	\$720.00	1.2.69
Oputea A	458.2.32	\$1,090.00	1.2.69

<sup>388</sup> Te Manawa-o-Tuhoe Valuations, WMLC Current File 45-189 Te Manawa-o-Tuhoe.

Amalgamation of Urewera Lands 1960s-1980s

Oputea C	1234.3.26	\$3,070.00	1.2.69
Waiohau B12B2	435.2.00	\$3,150.00	1.2.69
Waiohau B10	432.0.00	\$3,000.00	1.2.69
Waiohau B1	123.1.25	\$220.00	1.2.69
Waiohau B2	82.3.07	\$150.00	1.2.69
Waiohau B4	113.0.00	\$450.00	1.2.69
Waiohau B6	173.1.32	\$400.00	1.2.69
Waiohau B14	143.0.00	\$270.00	1.2.69
Waiohau B8	279.0.16	\$1,850.00	1.2.69
Waiohau B9A	221.0.00	\$1,580.00	1.2.69

**Table 3.7: Te Manawa-o-Tuhoe Valuations 1973<sup>389</sup>**

Block	Date and type of Original Order	Area in a.r.p	No. of Owners	Total Shares	Land Value	Value per acre
Ruatoki B29	C/O 30.9.33	75.0.00	11	34.64700	\$900.00	\$12.00
Ruatoki C30B	P/O 21.7.70	122.0.30	15	80.87500	\$1,730.00	\$14.16
Ruatoki C31B	P/O 16.8.50	53.2.04	3	53.52500	\$1,050.00	\$19.62
Ruatoki C47	C/O 30.9.33	699.2.00	9	176.93400	\$7,400.00	\$10.58
Ruatoki C49	C/O 30.9.33	195.3.00	2	96.70000	\$1,000.00	\$5.11
Ruatoki C50	C/O 30.9.33	231.1.20	9	114.96300	\$1,150.00	\$10.05
Ruatoki C51	C/O 30.9.33	156.2.23	6	1.00000	\$800.00	\$5.10
Ruatoki C52	C/O 30.9.33	348.0.00	5	169.55500	\$1,750.00	\$5.03
Ruatoki C53	C/O 30.9.33	202.0.00	11	1.00000	\$2,000.00	\$9.90
Ruatoki C54	C/O 30.9.33	40.0.00	19	1.00000	\$600.00	\$15.00
Ruatoki C55	C/O 30.9.33	49.0.00	5	49.00000	\$750.00	\$15.31
Ruatoki C57	C/O 30.9.33	157.2.00	11	61.43300	\$1,250.00	\$7.94
Ruatoki C58	C/O 30.9.33	534.0.25	40	534.15625	\$4,250.00	\$7.96
Ruatoki C59	C/O 30.9.33	598.3.26	30	598.91250	\$3,000.00	\$5.03
Ruatoki C60	C/O 30.9.33	403.1.00	16	189.92800	\$2,000.00	\$4.96
Ruatoki C62	C/O 30.9.33	272.2.00	15	1.00000	\$1,100.00	\$4.04
Ruatoki C63	C/O 30.9.33	1935.3.00	99	1935.75000	\$8,900.00	\$4.60
Ruatoki B75	C/O 30.9.33	324.2.07	47	324.54375	\$1,300.00	\$4.01
Kawekawe	16.11.22	264.0.00	41	96393.00000	\$2,500.00	\$9.47
Mokorua	16.11.22	471.0.00	26	117275.00000	\$2,350.00	\$4.99
Onapu	16.11.22	229.2.00	54	229.50000	\$1,350.00	\$5.88
Owhakatoro No.7	P/O 17.11.64	272.0.19	3	270.00000	\$2,350.00	\$11.94
Papapounamu	27.2.23	1028.3.00	119	1845211.00000	\$8,600.00	\$8.36
Pukehou	27.2.23	951.0.00	41	162341.00000	\$4,750.00	\$4.99
Tapapakiekie	27.2.23	1231.0.00	62	209007.00000	\$6,150.00	\$5.00
Tawhia	27.2.23	501.3.00	30	84682.00000	\$3,000.00	\$5.98
Tukutoromiro	27.2.23	1875.0.00	189	1875.00000	\$9,350.00	\$4.99
Ruatoki B58	C/O 30.9.33	198.0.00	4	98.50000	\$2,600.00	\$13.13
Ruatoki B64	C/O 30.9.33	303.0.22	30	1.00000	\$5,950.00	[none given]

<sup>389</sup> Te Manawa-o-Tuhoe Valuations, WMLC Current File 45-189 Te Manawa-o-Tuhoe.

Amalgamation of Urewera Lands 1960s-1980s

Ruatoki B72	P/O 21.7.70	135.1.33	27	135.45625	\$2,700.00	\$20.08
Ruatoki C9	P/O 16.8.50	116.0.00	5	60.00000	\$1,750.00	\$15.09
Ruatoki C26	C/O 30.9.33	76.1.00	6	38.00000	\$1,150.00	\$15.08
Ruatoki C28	C/O 30.9.33	72.0.00	1	72.00000	\$870.00	\$12.08
Ruatoki C37	C/O 30.9.33	280.0.00	15	56.00000	\$7,500.00	\$26.78
Ruatoki C56	C/O 30.9.33	131.2.22	9	82.75000	\$1,950.00	\$14.81
Ruatoki C64	C/O 30.9.33	50.0.00	2	26.78000	\$1,700.00	\$34.00
Ruatoki D1	C/O 30.9.33	214.0.30	8	108.18000	\$2,600.00	\$12.14
Ruatoki D2	C/O 30.9.33	215.0.00	4	106.00000	\$2,800.00	\$13.02
Ruatoki D3	C/O 30.9.33	264.1.28	1	1.00000	\$3,100.00	\$11.72
Ruatoki D4	C/O 30.9.33	964.0.00	304	964.00000	\$6,250.00	\$6.48
Ruatoki D5	C/O 30.9.33	408.3.00	145	408.75000	\$3,350.00	\$8.19
Ruatoki D6	C/O 30.9.33	431.0.00	58	431.00000	\$2,350.00	\$5.45
Ngautoka	16.11.22	159.0.00	13	58214.00000	\$5,500.00	\$42.31
Owhakatoro No. 5	P/O 17.11.64	331.0.00	1	380.00000	\$4,400.00	\$13.29
Owhakatoro No. 6	P/O 17.11.64	103.2.00	8	1.00000	\$1,450.00	\$14.01
Te Pohue No. 2	19.10.23	149.0.00	60	54587.00000	\$2,850.00	\$20.50
Poutere	16.11.22	162.0.00	45	162.00000	\$1,500.00	\$10.71
Puketapu No. 2	14.8.53	40.1.21	30	39.72430	\$550.00	\$20.26
Oputea A	12.9.28	458.2.32	23	77883.00000	\$3,100.00	\$6.76
Oputea B2	25.7.72	392.1.09	6	26720.00000	\$9,400.00	
Oputea C	12.9.28	1234.3.26	49	206794.00000	\$6,100.00	\$4.94
Waiohau B12B2	27.2.57	435.2.00	20	429.24605	\$9,100.00	\$20.89
Waiohau B10	1.10.36	432.0.00	1	54.00000	\$6,500.00	\$15.05
Waiohau B1	1.10.36	123.1.25	17	15.00000	\$1,250.00	\$10.13
Waiohau B2	1.10.36	82.3.07	3	58.00000	\$400.00	\$4.83
Waiohau B4	1.10.36	113.0.00	4	28.50000	\$2,400.00	\$21.24
Waiohau C29	14.2.72	14.1.00	23	124.24000	\$1,400.00	
Waiohau B6	1.10.36	173.1.32	31	45.00000	\$1,450.00	\$8.36
Waiohau B14	14.2.72	143.0.00	4	103.00000	\$750.00	\$5.24
Waiohau B8	1.10.36	279.0.16	18	279.10000	\$3,500.00	\$12.54
Waiohau B9A	25.8.64	221.0.00	18	17.33333	\$2,800.00	\$12.67
Waiohau C26 pt 1	1.10.36	0.0.30	9	22.45000		
Waiohau C27	1.10.36	118.3.30	4	66.69600	\$4,200.00	

Table 3.8: Te Manawa-o-Tuhoe Valuations Comparison 1969 and 1973<sup>390</sup>

Block	Area in a.r.p	Land Value at 1.2.69	Land Value at 17.5.73
Ruatoki B29	75.0.00	\$370.00	\$900.00
Ruatoki C30B	122.0.30	\$1,050.00	\$1,730.00
Ruatoki C31B	53.2.04	\$530.00	\$1,050.00
Ruatoki C47	699.2.00	\$1,900.00	\$7,400.00
Ruatoki C49	195.3.00	\$200.00	\$1,000.00

<sup>390</sup> Te Manawa-o-Tuhoe Valuations, WMLC Current File 45-189 Te Manawa-o-Tuhoe.

Amalgamation of Urewera Lands 1960s-1980s

Ruatoki C50	231.1.20	\$230.00	\$1,150.00
Ruatoki C51	156.2.23	\$160.00	\$800.00
Ruatoki C52	348.0.00	\$350.00	\$1,750.00
Ruatoki C53	202.0.00	\$600.00	\$2,000.00
Ruatoki C54	40.0.00	\$200.00	\$600.00
Ruatoki C55	49.0.00	\$250.00	\$750.00
Ruatoki C57	157.2.00	\$240.00	\$1,250.00
Ruatoki C58	534.0.25	\$800.00	\$4,250.00
Ruatoki C59	598.3.26	\$600.00	\$3,000.00
Ruatoki C60	403.1.00	\$400.00	\$2,000.00
Ruatoki C62	272.2.00	\$270.00	\$1,100.00
Ruatoki C63	1935.3.00	\$1,700.00	\$8,900.00
Ruatoki B75	324.2.07	\$240.00	\$1,300.00
Kawekawe	264.0.00	\$1,060.00	\$2,500.00
Mokorua	471.0.00	\$280.00	\$2,350.00
Onapu	229.2.00	\$230.00	\$1,350.00
Owhakatoro No.7	272.0.19	\$680.00	\$2,350.00
Papapounamu	1028.3.00	\$1,780.00	\$8,600.00
Pukehou	951.0.00	\$1,100.00	\$4,750.00
Tapapakiekie	1231.0.00	\$12,230.00	\$6,150.00
Tawhia	501.3.00	\$850.00	\$3,000.00
Tukutoromiro	1875.0.00	\$1,875.00	\$9,350.00
Ruatoki B58	198.0.00	\$1,500.00	\$2,600.00
Ruatoki B64	303.0.22	\$7,600.00	\$5,950.00
Ruatoki B72	135.1.33	\$2,130.00	\$2,700.00
Ruatoki C9	116.0.00	\$750.00	\$1,750.00
Ruatoki C26	76.1.00	\$240.00	\$1,150.00
Ruatoki C28	72.0.00	\$550.00	\$870.00
Ruatoki C56	131.2.22	\$280.00	\$1,950.00
Ruatoki C64	50.0.00	\$1,000.00	\$1,700.00
Ruatoki D1	214.0.30	\$1,280.00	\$2,600.00
Ruatoki D2	215.0.00	\$1,000.00	\$2,800.00
Ruatoki D3	264.1.28	\$800.00	\$3,100.00
Ruatoki D4	964.0.00	\$1,550.00	\$6,250.00
Ruatoki D5	408.3.00	\$800.00	\$3,350.00
Ruatoki D6	431.0.00	\$700.00	\$2,350.00
Owhakatoro No. 5	331.0.00	\$1,000.00	\$4,400.00
Owhakatoro No. 6	103.2.00	\$720.00	\$1,450.00
Oputea A	458.2.32	\$1,090.00	\$3,100.00
Oputea C	1234.3.26	\$3,070.00	\$6,100.00
Waiohau B12B2	435.2.00	\$3,150.00	\$9,100.00
Waiohau B10	432.0.00	\$3,000.00	\$6,500.00
Waiohau B1	123.1.25	\$220.00	\$1,250.00
Waiohau B2	82.3.07	\$150.00	\$400.00
Waiohau B4	113.0.00	\$450.00	\$2,400.00
Waiohau B6	173.1.32	\$400.00	\$1,450.00
Waiohau B14	143.0.00	\$270.00	\$750.00
Waiohau B8	279.0.16	\$1,850.00	\$3,500.00
Waiohau B9A	221.0.00	\$1,580.00	\$2,800.00

## **Bibliography:**

### **1: Primary Sources**

#### *Unpublished:*

Maori Land Court, Waiariki District, Rotorua:

Rotorua Minute Books 193,194

Whakatane Minute Books 47, 49, 52, 58, 58A, 77

Waiariki Maori Land Court Current File 45-189 Te Manawa-o-Tuhoe

Waiariki Maori Land Court Current File 45-198 v.1 Tuhoe Tuawhenua

Waiariki Maori Land Court Current File 45-199 Te Pae-o-Tuhoe

Waiariki Maori Land Court Current File 45-200 v.1 Tuhoe Kaaku

Archives New Zealand – Auckland

BBLA 4945/328c 5/981 Tuhoe Waikaremoana Trust Board 1976-1983

Archives New Zealand – Wellington

MA W2150 1/1/71 (Box 1) Minister's Visit to Ruatahuna – Maungatapu

Alexander Turnbull Library – Wellington

MS Papers 7888 037 Elsdon Craig – Nga Taka a Ngai Tuhoe submission

MS Papers 7888 037 Elsdon Craig – Correspondence/Briefing Papers

#### *Published:*

*Appendices to the Journals of the House of Representatives* 'The Maori Land Courts: Report of the Royal Commission of Inquiry', 1980, H-3

*Auckland Star*, Monday 26 April 1971

Maori Affairs Act 1953

Maori Affairs Amendment Act 1967

### **2: Secondary Sources**

Bassett, H. and Kay, R., 'Ruatahuna: Land Ownership and Administration c.1896-1990', Report for the Waitangi Tribunal, June 2001 (Wai 894 record of inquiry doc A20)

Boast, R.P., 'The Crown and Te Urewera in the 20<sup>th</sup> Century: A Study of Government Policy', December 2002, (Wai 894 record of inquiry doc A109)

Amalgamation of Urewera Lands 1960s-1980s

Tuawhenua Research Team, 'Ruatahuna, Te Manawa o Te Ika. Part Two: A History of the Mana of Ruatahuna from the Urewera District Native Reserve Act 1896 to the 1980s', April 2004, (Wai 894 record of inquiry doc D2)



DUPLICATE

Wai 894 # 3.64

Wai 894

**WAITANGI TRIBUNAL**

**CONCERNING**

the Treaty of Waitangi Act  
1975

**AND**

the Urewera Inquiry

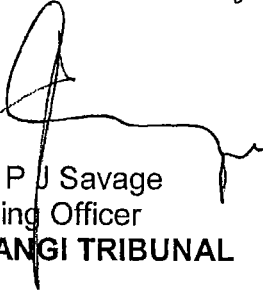
**DIRECTION COMMISSIONING RESEARCH**

1. Pursuant to clause 5A of the second schedule of the Treaty of Waitangi Act 1975, the Tribunal commissions Clementine Fraser to complete a research report on the amalgamation of Urewera lands 1960-1980s, covering the following matters:
  - a) The Maori Affairs Amendment Act 1967 and the changes it allowed the Maori Land Court to exercise in terms of amalgamating lands and establishing Trusts, and of the safeguards it implemented in terms of administration and alienation;
  - b) The role of the Maori Affairs Department in establishing the scheme, with particular regard to the 'improvement officers';
  - c) The administrative process of amalgamating titles and the extent of consultation with the owners of the 4 different areas to be amalgamated;
  - d) The valuation process applied to the land blocks in the amalgamation scheme;
  - e) The causes and extent of any confusion over title amalgamation;
  - f) The consequences of any confusion surrounding title amalgamation;
  - g) Ongoing title problems and the extent to which this misunderstanding was treated or left untreated by Court or Crown agents
  - h) Protest or appeals by owners against the decision to amalgamate land;
  - i) The decision and process whereby trusts were created to administer the Tuhoe amalgamations;
  - j) The expectations of and facilities provided to trusts to administer the Tuhoe amalgamations.

- k) The researcher will not be required to examine the process of subsequent administration of the lands by the Tuhoe Waikaremoana Maori Trust Board, except as it relates to the above issues.
2. The researcher will consult with affected claimant groups to determine what issues they consider to be of particular significance to their claims and to access such relevant oral and documentary information as they wish to make available.
  3. A complete draft of the report must be submitted by 30 January 2003. The commission ends on 27 February 2003, at which time one copy of the final report will be submitted for filing in unbound form, together with indexed copies of any supporting documents or transcripts. An electronic copy of the report will also be provided on diskette or CD, preferably in Word 97 or Adobe Acrobat format.
  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:

Clementine Fraser  
Claimants for Wai 894  
Counsel in the Urewera inquiry  
Tuhoe Waikaremoana Maori Trust Board  
Deputy Chief Historian  
Inquiry Facilitator  
Solicitor General, Crown Law Office  
Director, Office of Treaty Settlements  
Secretary, Crown Forestry Rental Trust  
Chief Executive, Te Puni Kokiri

Dated at Rotorua, this 22, day of December 2003.

  
Judge P J Savage  
Presiding Officer  
**WAITANGI TRIBUNAL**