

WAI 38

THE WAIPOUA-MAUNGANUI CLAIM

A Preliminary Research Report on Waipoua Aspects of the Claim
for the Waitangi Tribunal

Waitangi Tribunal Staff

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Corrections

CORRECTIONS TO THE PRELIMINARY RESEARCH REPORT
ON THE WAIPOUA ASPECTS OF THE CLAIM

(WAI 38) BY THE WAITANGI TRIBUNAL

(Document B1)

- Page 5 paragraph 5 line 5: Iehu Moetara
- Page 6 paragraph 3 line 8: "so that they could buy land
at Waimamaku"
- Page 7 paragraph 4 line 4: Pipi Kamana (Cummins)
- Page 13 paragraph 3 line 3: "in both 2B3A and 2B3D"
- Page 13 paragraph 3 line 5: "200 acres af 2B3D"
- Page 13 paragraph 3 line 11: "The bigger portion of 2B3A"
- Page 13 paragraph 3 line 15: "And in block 2B3B"
- Page 15 paragraph 3 line 4: "2B3B1, 2B3D2, 2B3A2"

ABBREVIATIONS

AJHR	Appendices to the Journals of the House of Representatives.
ATL	Alexander Turnbull Library.
DOC	Department of Conservation
DOSLI	Department of Survey and Land Information, Head Office.
HPT	Historic Places Trust
MLC	Maori Land Court, Whangarei.
NA	National Archives, Wellington.
NAA	National Archives, Auckland.
NZG	New Zealand Government Gazette.
TRWAAC	Interim Te Roroa-Waipoua Archaeological Advisory Committee

CONTENTS

- I INTRODUCTION
 - 1.1 Background
 - 1.2 The Claim
 - 1.3 This Report
- II WAIPOUA 1876 - 1917
 - 2.1 The 1876 Sale
 - 2.2 Waipoua No 2 Block
 - 2.3 Waipoua No 1 Block
 - 2.4 The 1908 Stout-Ngata Commission
 - 2.5 Private Purchases 1914-19
- III WAIPOUA 1917-40
 - 3.1 The New Forest Service at Waipoua
 - 3.2 The Waipoua Maori Settlement c1930
 - 3.3 Crown Land Purchase
 - 3.4 Maori Protest and the 1937 Petition to Parliament
 - 3.5 The Kaipara Land Development Scheme at Waipoua
- IV WAIPOUA FROM 1940
 - 4.1 Waipoua since the 1940s
 - 4.2 Access issues
 - 4.3 The Restructuring of Crown Agencies at Waipoua
- V WAHI TAPU AND ARCHAEOLOGY
 - 5.1 Overview
 - 5.2 Wahi Tapu
 - 5.3 Archaeology at Waipoua
 - 5.4 The interim Te Roroa-Waipoua Archaeological Advisory Committee
 - 5.5 Recent Developments
- VI APPENDICES
 - 6.1 The Claim
 - 6.2 Maps
- VII BIBLIOGRAPHY
- VIII FOOTNOTES

I INTRODUCTION

1.1 Background

The Waipoua-Maunganui claim concerns various resource management and land issues in the area between Waimamaku and Kaihu. The claimants are mainly members of Te Roroa hapu.

This report looks at the Waipoua parts of the claim which stem from the Crown purchase of the Waipoua and Maunganui blocks in 1876 and subsequent Crown policy and practice at Waipoua.

When the Waipoua block was sold to the Crown 12,200 acres was set apart to remain in Maori ownership. This block was called Waipoua No2, or Waipoua Native Reserve. All of it remained in Maori ownership until the early years of this century when a gradual process of alienation began. Today only about 500 acres are in Maori ownership. Although there is a small block at Waikara at the south end of Waipoua No2, most of this remaining Maori land is at the isolated Waipoua settlement on the Waipoua River. The rest of the land is now either Pakeha farmland or Crown-owned exotic forestry. Much of the Waipoua block sold to the Crown is now part of the Waipoua Kauri Sanctuary.

Since Government restructuring in 1987 the Waipoua Kauri Sanctuary is administered by the Department of Conservation while the exotic forest land at Waipoua is administered by the Forestry Corporation. The proposed privatisation of the Crown commercial forest assets has met with opposition at Waipoua, particularly over the question of protection of wahitapu. Because of this protest the Cabinet agreed in March 1989 to withdraw the Waipoua forests from the asset sale programme until the Waitangi Tribunal has made its deliberations, or until 1991 if the Tribunal has not by then considered the issue.

The Waipoua area has been the scene of major archaeological investigation since the 1970s. Since Government restructuring this work has been administered by the Department of Conservation. In recent times there has been some tangata whenua concern about the management of the archaeological programme.

1.2 The Claim

The first notice of claim relating to Waipoua was received by the Waitangi Tribunal in November 1986. The late Mr Ned Nathan and his sons Alex and Manos Nathan claimed that the sale of Waipoua and Maunganui lands and the failure to make proper reserves in 1876 was wrong and contrary to the principles embodied in the Treaty of Waitangi.

In March 1987 Alex Nathan wrote to the Tribunal saying that the impending transfer of forest lands to the new Forestry Corporation gave their claim an urgent aspect, and that the proposed moves would adversely affect their position with regards wahitapu, wahi rahui, urupa and kaimoana.

Part of this claim was later subsumed in a claim made by members of the Maunganui Reserves Trustees Committee, which included Ned Nathan, regarding

two areas called Manuwhetai and Whangaiariki which the claimants said were wrongly included as part of the Maunganui block due to Crown oversight or mistake. In late 1988 another notice of claim was laid by Mr Ropata Parore in relation to land at the Taharoa lakes, also within the old Maunganui block.

In December 1988 all these Waipoua, Maunganui and Taharoa concerns were brought together by the claimants into one claim. In May this year the claim was further reformulated, and claims in relation to fisheries, minerals, and Waimamaku and Kaihu lands, were added. In June there was further amendment of the Waipoua aspects of the claim. These Waipoua concerns include the 1876 sale, subsequent land alienations, the history of the Koutu reserve at Kawerua, Crown forestry policy, the protection of wahitapu, the provision of road access and public services at Waipoua, and the management of archaeology. This latest notification of claim is attached as an appendix to this report.

1.3 This Report

This is the third preliminary report by Waitangi Tribunal staff on aspects of this claim. The first report gave a general historical summary of the Waipoua-Maunganui area, and looked in detail at the 1876 sale of Waipoua and Maunganui and at the subsequent claim in relation to Manuwhetai and Whangaiariki. A much shorter supplementary report was also produced that looked at those aspects of the claim concerning land and resource management issues around the Taharoa lakes.

This report is intended to provide some historical and contemporary background to the post-1876 Waipoua aspects of the claim, and in so doing, highlight for the Waitangi Tribunal issues raised on the face of the claim. The material presented is, of course, open to further debate and examination.

The report is less comprehensive and detailed than first planned, simply because of time constraints and the need to get the report out before the second hearing of the claim. The report has been written by David Colquhoun and Rosemary Daamen. Michael Taylor has also helped with the research and writing. An unedited preliminary draft report on Crown policy and practice in Waipoua No2 block by Michael Taylor has been invaluable in the production of this report. Because this draft contains detailed information that has not been incorporated into this report it has been included on the Record of Documents (doc B2).

Most of the Waipoua aspects of the claim are referred to in this report, although sometimes only briefly. The background to the 1876 sale has already been looked at in the first report and is not covered here. However much more research could be done. Local people have a deep suspicion of past Crown actions relating to partition, alienation, survey and other aspects of land history and it has not been possible to research all such concerns for each of the many blocks at Waipoua. The Koutu block part of the claim has not been researched, although all relevant documents located have been added to the Record of Documents (doc B16).

The report has been compiled largely from the archives and records of the different Crown agencies involved at Waipoua. These were Lands and Survey,

Maori Land Court, Maori Affairs, Forestry and other Government archives held at National Archives offices at Auckland and Wellington, records held at the Maori Land Court at Whangarei, Department of Survey and Land Information Offices at Auckland and Wellington, and the Department of Conservation offices at Auckland, Wellington, Kaikohe and Waipoua. The research has also drawn on information provided by local people, but is mainly based on these official Pakeha sources. The report can therefore only supplement any primary oral evidence which may be presented.

II WAIPOUA 1876 - 1917

2.1 The 1876 Sale

The sale of Waipoua in 1876 has already been covered in depth in an earlier report (doc A13). To summarise, in February 1876 Waipoua lands were brought before the Maori Land Court and memorials of ownership were awarded. Ownership of these lands and the Maunganui block to the south had been hotly disputed by Te Roroa and their allies, led by Tiopira Kinaki, and Te Kuihi and other hapu led by Parore Te Awha.

The Court awarded the main Waipoua and Maunganui lands to these two chiefs and the lands were then sold to the Government. No further discussion is given here of the specific agreements made in regard to the Maunganui block. At Waipoua 12,200 acres was kept apart from the land sold and a separate memorial of ownership issued. This memorial of ownership lists ten "owners according to Native custom" (doc A4:458G-J).¹ In addition to Tiopira and other Te Roroa chiefs the memorial listed two Ngatikorokoro chiefs, Hapakuku Moetara and Wiremu Moetara, and Peneti of Te Taou hapu. It is not known if the list of owners was limited to ten by the Land Court or if the people themselves only acknowledged ten owners. If the number was limited by the Court then it appears to have contravened the Native Land Act 1873, which specified all owners should be on the memorial of ownership.

The whole sale process left bitter memories for Te Roroa. Tiopira, convinced he had been cheated of part of the purchase money by the land purchase agents, sought payment until his death, a demand continued by his descendants. This early distrust of the Crown and its agents was strengthened by later Crown policy and practice at Waipoua.

In the deed of sale for Waipoua No1 block, and in other contemporary documents, the 12,200 acres remaining in Maori hands was sometimes called the Waipoua Native Reserve (doc A5:721A-D).² In the memorial of ownership it is called simply Waipoua No2 block. Some significance has been attached to the use of the term "reserve", and it may be useful, therefore, to look at what the term "reserve" meant in 1876 and how this block fitted that description.

The main Maori land acts current at the time respecting Maori reserves were the Native Land Act 1873 and the Native Reserves Act 1873. The section on reserves in the Native Land Act 1873 clearly refers to lands coming under the jurisdiction of Native Reserves Commissioners. The Native Reserves Act set out the administrative procedures for such reserves. Once land had been set apart as a Maori reserve it was administered in trust by a Native Reserves Commissioner. Ownership and control passed, in effect, out of Maori hands. No such Reserves Commissioner was operating in Northland, and clearly, the Waipoua block was never intended to be a Maori reserve under this legislation.

The Act appears to distinguish between reserves and those lands:

5

excepted or reserved by Aboriginal Natives, on the cession or surrender of lands to the Crown, and specified as so excepted or reserved in the deed of cession or surrender, and which still remain the absolute possession of such Aboriginal Natives (s.11).

This description better fits Waipoua No2 even though it was technically a separate block with a separate memorial of ownership.

It appears that the words "native reserve" in the Waipoua context simply meant lands that were to stay in Maori ownership as distinct from those other lands passing to the Crown. There is certainly an implication in the term that the land was to be an endowment for the tribe. There is no reason to disagree with the statement of one of the present Te Roroa land owners that "this ancient, ancestral land ... always was intended by the kaumatua of Te Roroa to remain Maori customary land - a papa kainga for the people" (doc A12).

2.2 Waipoua No2 Block

Not much information has been found about the early history of Waipoua No2 and those living there. The people at Waipoua were isolated from European contact and information from archival sources is therefore very limited. The area is hardly mentioned in reports of the northern officials in the late nineteenth century. Many Te Roroa would have moved to lands at Hokianga, Waimamaku, and the Kaihu valley, because there was more work in these areas, particularly in the timber and gum trades. In 1878 the census recorded only 11 Te Roroa living at Waipoua, but 97 at Waimamaku.³

But there were always permanent residents. For example, it was reported in 1881 that eight children from Waipoua would attend the new Maori school at Waimamaku.⁴ A 1903 map shows several small settlements linked by horse tracks in the forest.⁵ Other documentation is provided in the archives and published reports of the Stout-Ngata Commission of 1908. Aperahama Reupena, Tehu Moetara, Pipi Te Kamana, Enoke Te Rore Taoho, Pohi Paniora and others gave evidence to the Commission about houses and cultivations along the Waipoua valley and at Waikara (doc B12:170-88).⁶

Some Pakeha, mainly gumdiggers working the kauri forests and gum land, also used these lands. Part of the land was leased at least as early as 1880.⁷ There was a flax mill and a flax lease at the southern end of the block in the early 1900s.⁸ Others had permission to work the gumlands on the block,⁹ but most probably worked on the surrounding Crown land. The centre of this European activity was the Post Office, hotel, and gum store at Kawerua (Lawlor 1984; 220-2)(doc B18).

The subsequent land history of the block is dominated by the workings of the Maori land laws. Waipoua No2 provides a fine case study of the way this legislation produced multiplying ownership, land fragmentation, and ultimately, land loss. The first partition of Waipoua came in 1886 after an application by Hapakuku Moetara and others. He and three others received the 2A southern portion, and some of their descendants continue to live at Waikara. A small wahitapu, block 2C, was also cut out at this time. The

remaining land, block 2B, was awarded to Tiopira and others. With subsequent partitions there were over 60 owners in 1908, and there are many more today owning a far smaller area.¹⁰

Most of the alienation of Waipoua No2 happened during and after the 1910s and is discussed in sections 3.2 and 3.3. Before then there was little apparent interest in selling land. A Crown Lands Ranger looked at Waipoua as part of an investigation of possible lands for purchase in 1893. He described most of the land as low base sandstone hills, and reported that most of the owners "will not sell", although Hapakuku Moetara, a part owner of 2A, was "willing to sell his share".¹¹

The first alienation came in 1906, when the Crown took 95 acres for unpaid survey costs incurred as part of the partitioning of 1900. An application was made by the Chief Surveyor and the eastern portion of 2B2 was cut out. It is a narrow strip of land running through the middle of the No2 block. No record of any clear Crown interest in further purchase has been found for this period, but it is possible the alienation reflected some latent interest. Some owners wrote to the Native Minister in 1911 offering to sell land at Waipoua so that they could buy land at Waipoua (doc B6:390-1).¹² However in 1912 when the Crown, through the Maori Land Board, called a meeting of owners of 2B2B and 2B3C, both offers to buy the land were rejected (doc B6:380).¹³ Much more active efforts at Crown purchase began in 1917 (see section 3).

2.3 Waipoua No1

The post-1876 aspects of the claim before the Waitangi Tribunal mainly concern the Waipoua no2 block, but an understanding of the history of Waipoua No2 requires knowledge of what was happening in the surrounding lands and forests.

No evidence has been found from the archival sources consulted to verify any suggestion that the surrounding Waipoua No1 block was sold to the Crown only after an assurance had been given that the forest would be permanently protected (Halkett and Sale 1987:120). Around 1876 the officials involved in the sale certainly thought the land was being purchased for both settlement and timber (doc A3:41-2).¹⁴ Although some parts of the No1 block were subdivided for settlement, most remained in forest.

From the late nineteenth century the Crown slowly began to develop a new approach to forest management, which included both the selling of timber on Crown lands and a new awareness of the need to ensure some scenic reserves (Poole 1969:14). In 1906 part of the forest was declared State Forest (doc B3:3).¹⁵ It was about this time that James Maxwell became the first official Forest Guard at Waipoua with the task of protecting the forest from trespass. Maori and others access to the Waipoua No1 forests was prohibited,¹⁶ although local Maori appear to have consistently disregarded the new rules (see section 3.2).

From 1916 a new approach to forest management at Waipoua was foreshadowed in a report produced by D Hutchins - one of several he prepared on the potential of New Zealand forests (Powell 1969:15). Hutchins outlined a management scheme

for the Waipoua native forests which included the logging of immature trees and the "improvement" of the forest. According to the Surveyor-General, this report was a step towards the exploitation of the forest "in accordance with the methods adopted in countries where the forests are under scientific management".¹⁷ The early history of the Forest Service at Waipoua and the impact it had on local Maori is described in Chapter Three.

2.4 The Stout-Ngata Commission 1908

In 1907 a Commission on Native Lands and Native Land Tenure was established. Its members were Apirana Ngata and Sir Robert Stout whose task it was to examine Maori land that was not profitably occupied and to recommend how that land could be utilised in the interests of the Maori owners and the public.

The Commission's overall recommendations were that about half the 1,295,268 acres investigated be retained for Maori use and the remaining land be made available for European settlement, mainly as leasehold. It was a real attempt to find a new way in which Maori could utilise what little of their land remained. The findings were one of the first steps in Ngata's long campaign for a fair share of money and training for Maori land development (Orakei Report p50-1; Sorrenson 1968: 24-5). By leasing rather than sale of other lands Ngata envisaged that the land would be available through the Maori Land Boards and three-quarters of the proceeds would be paid to the Public Trustee for investment on behalf of the former owners.

The Commission investigated Waipoua lands as part of a hearing at Pakanae on 22 April 1908. Owners of all the Waipoua No2 blocks gave evidence, and predictably, they asked that the lands along the Waipoua and Waikara rivers be reserved for their homes and cultivations. Pipi Te Kamama, for example, said that of the 2793 acres of 2B2 block she wanted:

500 acres reserved to be indicated by myself - to include our kainga and to take in cultivations. The balance of the land I want to be leased not sold. We have little other land. Ours is a large family (doc B12:175)¹⁸

The other owners living at Waipoua similarly requested that the lands they used for residence and cultivation be reserved. Everybody asked that their unused land be recommended for lease not sale.

The Commission's recommendations closely followed the requests of the owners. All the land in use was recommended to be reserved for kainga, cultivations, or burial places. These lands only totalled 1842 acres, but included all the fertile river flat lands. The remaining lands were recommended to be made available for general settlement through leasing. These were lands that were not usually lived on or cultivated by Maori owners, like 2A1 which was already under a flax lease. Waitangi Tribunal research staff have compiled a rough plan showing the recommendations of the Commission as regards Waipoua (appendix 6.2).

The wishes of the owners and the intention of the Commission were clear. An Order-in-Council was introduced placing a prohibition on all private alienations for one year on the Waipoua block.¹⁹ In the long term, however, the recommendations were not followed, and by the 1920s most of the land

recommended for lease had been alienated to the Crown or private purchasers. Furthermore, some of the land recommended to be left in Maori ownership had also been bought, mainly by the Crown, although Maori protest saw some land returned in the 1930s (see sections 3.4).

The failure of the Stout-Ngata Commission was probably inevitable. The various measures supported by Ngata were introduced at a time when the Liberal Government was coming under increasing attack from the Reform Party parliamentary opposition, whose main rallying cry was the right to freehold. They had little sympathy for the idea of farmers leasing Maori land if it could be purchased, and after they came to power in 1912 the rate of purchase of Maori land was increased (King 1981:285).

2.5 Private Purchases 1914-19

Within ten years of the Stout-Ngata Commission findings on Waipoua much of the southern portion of the block had passed into European ownership. These were generally those lands which were not being lived on or cultivated by the owners, but which, at the Commission hearing, they had indicated they wanted to lease rather than sell. Not much research has been done on these transactions, but clearly the legislative and political environment was now such that in order to get some income from unused lands the owners had little option but to sell.

The first sale took place in 1914, when Naera Te Ngaru sold 400 acres of his 2A2 block to Margaret Eddowes.²⁰ In 1916 RC Kerr also got an agreement to purchase 82 acres of 2A1D at the extreme south of the block, but for technical reasons the transfer was delayed until 1919.²¹

Most of the land sold to private interests went in 1917 when the remainder of 2A2, 2A1C, 2A3A, 2A3B, 2A1A, 2B2B4, 2B2B5, and 2B2B6, totalling 3731 acres, were sold to LB and CD Marriner.²² CD Marriner was a businessman who probably intended to use these Waipoua lands for gum or flax milling operations. One senior Crown official felt that the eventual intention was to sell the land to the Government.²³, although this did not happen. Negotiations for these sales were all evidently begun in the first half of 1917, but for various reasons some were not completed until after the blanket prohibition on land sales imposed by the Crown in July 1917 (see section 3.3).²⁴

Maori attitudes to these sales are difficult to research from the surviving records and archives as there are few sources for local Maori opinion. Further research of early Maori Land Board alienation files held at National Archives in Auckland might be fruitful. What is clear, however, is that in 1908 owners were unanimous in wanting to lease not sell their land, but that by the mid-1910s there was little alternative to sale if they wanted any income from lands which they were unable to develop themselves.

III WAIPOUA 1917-40

3.1 The New Forest Service at Waipoua

In 1919 the forestry functions of the old Lands Department were brought together under a new independent Department of Forests. The new administration was strengthened with the passing of a new Forests Act in 1921-2 and renamed as the State Forest Service.

The move was a logical extension of the new interest and professionalism in New Zealand forest management developed in previous years (Roche 1983:9-10; Poole 1969:13-17). Forestry had a higher priority as a use of Crown land than previously, when the ethos of clearing land for settlement held sway. Forested land no longer had to be justified as suitable for State Forest reservation. The onus was now on the Lands Department to prove such lands were viable for settlement (Roche 1987:120).

Initially there was a new emphasis also on indigenous forest management, rather than afforestation, as a source for national timber needs. That emphasis was modified in the mid-1920s after further studies revealed that indigenous timber stocks were insufficient and the Forest Service launched a new exotic afforestation programme (Roche 1987:118-25).

Waipoua was an important part of the early Forest Service activity. The kauri forest was one of the major indigenous state forests proposed to be brought under the new "systematic management".¹ It was the kauri forest not exotic plantations which was the original focus of Forest Service at Waipoua. Experimental planting of pines and other exotics began in 1924 and by 1927 the Waipoua pine forest was one of four major state plantations in the Auckland provincial district² although at that time the establishment consisted only of a ranger station. A silviculture research station was opened in 1930, under Arnold Hansson, with the aim of ensuring the kauri forest was "zealously conserved and extended".³ By 1931 houses and other buildings were added⁴

For the people of Waipoua the expansion of the Forest Service had one main effect - the loss of their lands. To pursue its goals of protecting the kauri forest and, later, extending its plantations the Forest Service decided it needed all the Maori land in Waipoua No2 block. This policy and the way it worked in practice is discussed later in this chapter.

3.2. The Waipoua Maori Settlement

In 1931 after a visit to Waipoua Valley an official in the Maori Affairs Department described the Maori settlement:

Along the Waipoua river, there are flats of varying widths of up to half a mile in width on either side of really first class river flats. Though the place has not been farmed to any extent, there is an abundance of growth in this river valley, and the native settlers have no intention of leaving

it. They have an abundance of fish and shellfish on the coast together with very fine mullet in the river. It is altogether an ideal locality for native occupation (doc B6:44-6)⁵

This and other records from the 1930s give some limited glimpses of the Maori community at Waipoua in these years.

Te Riwhi with her Yugoslav husband Nick Yakas and their family lived, farmed and cultivated by the river on the 2B3B1 block (doc B7:202-6).⁶ The Government was interested in buying up her portion of the block but she always refused to leave the land of her ancestors.⁷ She and her sister Te Hunga had been gifted the block by their mother Atareta Morunga, although that transaction was lost in the records in the early 1920s when the Crown purchased the shares in the block from other successors (see section 3.3, 3.4). By 1930 Te Hunga had given up her share to her sister and moved to Waimamaku to be with her husband (doc B6:45-6).⁸

Pohe Paniora and his family lived nearby on the 2B3D block. Some sense of their remote and independent lifestyle, and ties to the land, is suggested in the passing observation of a consolidation officer that Pohe and his wife had lived there all their lives and that their first excursion away from Waipoua for sixteen years had been to a consolidation meeting at Waimamaku that year (doc B6:45-6).⁹ Pohe died in 1935 but his family continued to live here.

The 2B2B1 block further down river was the home of Pipi Kamana (Cummins) and her daughter Urikore (Mrs Pera Nathan) and their family. Pipi was the daughter of Tiopira Kinaki and described by one observer as "Chieftainess at the settlement".¹⁰ She was always strongly opposed to any land sale and evidently had little time for Pakehas (Lawlor 1984:225)(doc B18:225). Across the river from Pipi's settlement Kahuru Hone Toi and her family lived on 2B3C while other owners lived at different times at Waipoua. Enoka Te Rore for example had cultivations and a house on his block (2B3A) in the 1930s although he lived most of his time at Kaihu (doc B6:44-6).¹¹

These then were the people who owned the land at Waipoua that the Forest Service had decided to buy. Past Crown actions have left sad memories. Years later the late Ned Nathan, grandson of Pipi Cummins remembered the Forest Service and other Crown agents as being

very very strict. And in fact they went beyond what was required by law. It made things uncomfortable for our people and the situation hinged from the fact that we refused to sell. I'm talking about my grandmother, my grandaunt and the people who were living at that time. Now they weren't sophisticated people. They were exploited mainly because they didn't know the law or where to get redress, and as a result they suffered (doc B22)¹²

3.3 Crown Purchase of Maori Land

From 1917 the the Crown went about purchasing as much Maori land at Waipoua as possible. By 1935 it had acquired all the land around the Waipoua Maori settlement, including parts of the traditional papakainga land along the

11

valley. The following section looks at the reasons for purchase, the extent, the legislative and administrative framework and the methods used.

This Crown commitment to the purchase of Maori land at Waipoua began at least as early as 1917. In October 1916 the Commissioner of Crown Lands informed the Undersecretary of Lands that he felt the whole area to the coast should be included in a forest reserve and used for tree planting if so desired (doc B8:11-12).¹³ and by September 1917 the Native Land Board had decided to acquire all the unalienated portions of the block (doc B6:332).¹⁴ Any acknowledgement of a continuing Maori interest in keeping land in the area was always very limited. In 1919, for example, one official said it was "proposed to acquire...all land still in the possession of the natives(leaving perhaps small cultivated flats)"(doc B8:77).¹⁵ Generally the records suggest that the Crown intended to purchase all the land if possible. The possibility of lease rather than purchase was apparently never considered.

The main pressure for purchase came from the desire of the Department of Lands and then the Forest Service to protect the Waipoua kauri State Forest, seen as a prize asset. In particular the Crown felt that the presence of Maori land up to the border of the forest would provide protection from fire and trespassers. The Secretary of Forests wrote in 1922 for example that "The main aim in acquiring these native lands is, of course, protection of our forest from fire" (doc B8:61).¹⁶ The following year the Conservator wrote that land adjoining the forest

is a distinct menace...while in Native occupation both from fire and trespass points of view. I consider, therefore that the balance of the area should be secured at any price within reason (doc B8:55)¹⁷

Protection against trespassers was a big concern from the time Waipoua was first declared a State Forest and James Maxwell began his long career as Forest caretaker. Gum bleeding and digging were particular worries.¹⁸ And trespassers were seen as a continual fire risk. It is clear from Forest Service files that Maori were regarded as the principal offenders, although not the only ones. Something of the suspicion in which Maori owners were held is indicated in file comments about Nick Yakas and his Maori family, owners of 2B3B1

this section should be bought at almost any cost as the great State Forest is always in danger of fire through this Austrian, his family and friends continually digging gum in the locality....in my opinion all these people should be bought out at once (doc B6:161)¹⁹

From the beginning of the purchase programme there was Crown interest in using the former Maori land for afforestation. The earliest evidence is the map which accompanied Hutchin's report on Waipoua which showed all of Waipoua no2 as "Native Land to be acquired for reforestation" (doc B10).²⁰ Planting in pine and other exotics only began however in 1923 with experimental pine planting. Exotic forestry was to become much more important than the kauri forest in Forest Service commercial operations but in these early years it was seen as a way to use the land acquired rather than a main reason for purchase.

European settlement was of course the main purpose for which Maori land was usually bought. But settlement was never a reason for land purchase at

Waipoua in these early years. Forestry was always the preferred use and most of the land at Waipoua was regarded as unsuitable for settlement. That had been the opinion given in a 1893 Crown Ranger report (doc B9:8)^{20A}, and it was repeated in another ranger report in 1917, although the Crown thought it might be suitable for settlement later (doc B9:39; B6:333).²¹ In the 1930s there was some local Chamber of Commerce agitation about good farmland being used for exotic forestry but a Lands and Survey report found that the land would be better retained for tree planting (doc B8:34)²² Crown interest in the area for farm settlement purposes came later, in the 1950s when the Department of Lands and Survey bought up most of the old 2A blocks for farm development schemes and attempted to buy up Maori land at the Waikara end of the Waipoua no2 block (see section 4.1)

With these concerns in mind the Crown set about the task of land purchase. From 1917 to 1923 the Crown acquired 2B3D1 in 1918 (doc B3:10)²³ and through the 1920s purchased the bulk of 2B3A (doc B3:13)²⁴, most of the rest of 2B3D (doc B3:26)²⁵ and 2B3B1, 2B3B2 (doc B3:20).²⁶ Most Maori interests in 2B3C and 2B2B3 were also acquired during the 1920s even although they were along way from the kauri forest boundary. By the end of the decade therefore the Crown had achieved its main aim of owning the land along the kauri forest border, and had already started to buy up some of the fertile valley land traditionally used by the Maori residents and recommended for permanent Maori use by the Stout-Ngata Commission in 1908.

These first Crown purchases were carried out under the Native Land Act Of 1909, which, together with an amending act of 1913 increase the powers of Crown Land Purchase agents (Kawharu 1977:26). A Native Land Purchase Board was established within the Native Department. Purchases were carried out through the Maori Land Boards, which had the power to call meetings of assembled owners to discuss, among other things, offers of purchase by the Crown. On the ground Crown transactions were carried out by the local Land Purchase officers, employees of the Native Department. Requests for purchase came from the State Forest Service via the Department of Lands and Survey to the Native Department and the Native Land Purchase Board who passed on instructions to the local officer. Costs were later charged back to the Forest Service.

Crown interest in land purchase at Waipoua was accompanied by a series of prohibitions on alienations of Waipoua No2 lands, other than to the Crown. In April 1917 the Chief Surveyor asked that the Undersecretary of Lands introduce the prohibition "as the native owners of Waipoua are willing to dispose of their interests at a reasonable rate" and that "immediate steps be taken to acquire the land at the earliest opportunity"(doc B6:377).²⁷ His concern appeared to be that private purchasers might buy the lands first, who he referred to as "Austrian gumdiggers" (doc B9:42)²⁸ and much of the southern portion of Waipoua No2 was sold just before and after the prohibition to private buyers (see section 2.5). The first of these Orders-in-Council was issued in July 1917 and prohibited all private alienations over most of Waipoua No2 (doc B3:7).²⁹ The prohibition was extended again in 1918 (doc B3:9)³⁰ and at various times in subsequent years until 1932 when it was extended indefinitely (doc B3:40-1).³¹ It remained in force until 1972.

On the ground the work was done by the local Native Department Land Purchase Officers whose job it was to track down owners and try and get their agreement to sell. Land Purchase Officer Bowler and, later, Goffe, accompanied by an interpreter appear to have been regular visitors to Waipoua, Waimamaku and

local Land Court hearings in these years tracking down owners, offering to buy and providing regular reports for their Department. They were persistent and determined but found their task difficult because as Bowler wrote "the owners are scattered over a district which is very difficult of access" (doc B6:250).³² As interests were purchased the blocks were gazetted as Crown lands and then as State Forest. Those blocks partially purchased were put before the Land Court to be partitioned so that the Crown and remaining Maori interests could be separated.

By 1920 Bowler reported that he doubted if he could buy much more as the owners "were not inclined to sell". Some indication of his own lack of sympathy with Maori wishes is indicated by his concluding query asking if "there is not some machinery under the Forestry Acts under which vacant lands required for afforestation might be taken"(doc B6:227)³³ Goffe took over shortly afterwards and managed to keep the land purchase process going up until 1924, when land purchase activity appeared to have tailed off. In 1928 land purchase in Northland was temporarily stopped to enable the setting up of the Consolidation Schemes being introduced under the new Minister, Apirana Ngata.(doc B6:92)³⁴

The commitment to Crown rather than Maori interests and the haste in which the purchases were pursued led to practices that were later to produce the Maori protest described in the next chapter. In both 2B3A and 2B3B the owners understood that the interest they sold would be worked out on an area basis. This would have meant that Pohe Paniora would have kept 200 acres of 2B3B and that Enoka Te Rore would have had a similar amount in 2B3A. The Crown agents involved originally assumed that the subsequent partition would be worked out in this way (doc B6:206;B9:35)³⁵ but on partition the blocks were decided on a valuation basis and the owners received only 30 acres each. In Pohe's case this decision left out his house and gardens. Other doubtful valuation practices emerged in relation to the purchase of the bigger portion of 2B3D in 1918. After the purchase the Land Purchase Officer informed his Department that there were 42 kauri trees on the property which were not included in the valuation, or the price paid, although he had waived the survey fee (doc B6:288)³⁶. And in block 2B3D the Crown went ahead purchasing interests in 2B3B1 even although their records showed that the block had been intended to be gifted to two residents who did not wish to sell(doc B6:362).³⁷

The above examples were all the subject of a petition to parliament in 1937, discussed in the next section. There is room for much further research on purchase practices at Waipoua in these years. One can not help but get the impression that in all these dealings the Maori owners were at a disadvantage. They were under constant pressure to sell and were given no alternative, such as the opportunity to lease their land. Until the return of Ngata to power there was no state help with the development of what good land was left. When help did come through Ngata's land development schemes it may have been too little too late. Underlying the whole process of Crown alienation policy and practice was the legislative framework of the Native Land Acts. The growing fragmentation of land holdings made land use difficult and added to the incentive to sell.

3.4 Maori Protest and the 1937 Petition to Parliament

Crown actions at Waipoua have left a sense of grievance, and of sadness at the way the old people are felt to have been treated. Some of the transactions of the 1920s led to Maori protest in the 1930s, a petition to Parliament, and an attempt by the Crown to remedy some of the effects of its actions.

A strong local grievance was the loss of river valley flat land at the northern end of 2B3D and 2B3A. The Maori owners were convinced that the original arrangement with them had been that when part was sold to the Crown they would keep an acreage in proportion to their percentage share of the blocks. There is evidence that this was how the division was seen initially by Crown agents (see section 3.3). The Crown however later insisted that the land be partitioned on a valuation basis which meant the Maori owners received much smaller areas and the Forest Service acquired parts of the traditional kainga and cultivation land along the valley.

The main initial protestors were Pohe Paniora and his wife Te Aramara Tiopira owners of 2B3D2A. They had lived there all their lives and were certain that the Crown agents had actually pegged out their 200 acres in 1921. But partition in 1923 gave them only 30 acres, which excluded Pohe's house and cultivations (see section 3.3). Pohe's refusal to accept this situation is indicated for example in a Forest Service official's report that the land near the river, "some ten to twenty acres, is occupied by natives who seem very hostile to the Service ... believing that their land has been stolen, or words to that effect" (doc B8:119).³⁸ Some hint of the lack of understanding between the Crown and Maori parties is given in a 1931 comment by Arnold Hansson, the silviculturist at Waipoua, that "Pohe seems rather illiterate and cannot speak English".³⁹ After Pohe's death Ata Paniora continued to refuse Forest Service staff access to the 200 acres by the river (doc B8:121-2).⁴⁰

Crown actions produced a similar dispute with Enoka Te Rore, the owner of the neighbouring 2B3A block. Here too the Crown take much more land on partition than the owners had considered was their right and, as with 2B3D2, the Crown now owned a large part of the valley land within the block. The attitude of Forest Service staff was again unsympathetic. Hansson reported that in his opinion "the native mind has grasped the fact that as Pohe can obtain possession by just entering, so can others" and asked that the matter be looked into before "a general stampede for our areas takes place".⁴¹

The other block that was to be an issue of the 1937 petition to Parliament was 2B3B. The Crown had purchased most of this block from the ten successors to Atareta Morunga. But, as had been mentioned in the previous section the Crown failed to notice that Atareta had gifted the land to the two daughters who were living on the land, Te Riwhi and Te Hunga. They were both definite that the sale was unjust (doc B7:216)⁴² but were mainly concerned to preserve their ancestral cultivation and kainga sites at the southwestern river end of the block. Te Hunga later moved to Waimammaku and Te Riwhi's husband Nick Yakas was willing to sell but Te Riwhi refused "to leave the land of her ancestors"⁴³. The final part of the block was finally purchased from Yakas in 1961 (see section 4.1).

The introduction of a land development scheme at Waipoua in 1931 was a major catalyst for Maori protest. The scheme is discussed elsewhere (see section 3.5). What is important here is that the work of the land development officers for the first time provided the Maori of the valley with access to information about Crown land records and support in their resistance to purchase policies. Moreover by providing a new opportunity for land utilisation the scheme lessened the incentive to sell more land as a way to get money.

The land development officers soon saw that effective land development at Waipoua required the return to Maori of the river valley lands in Crown ownership. As they investigated the official records they came to the conclusion that the Maori owners of 2B3B1, 2B3B2 and 2B3A2 had a just grievance against the Crown, and they did their best to put forward the owners' case for the return of lands. In a series of reports officers Bell, Cooper, and Dillon put forward the Maori case culminating in a 1935 report by Cooper which stressed that there was little opportunity for the Crown to purchase any more land at Waipoua, that the Maori residents were anxious to increase their holdings for development purposes. They recommended that the boundaries of several blocks should be extended under section 529 of the Native Land Act 1931, with the consent of the Minister of Lands and Director of Forestry (doc B6:44-6,63,65-6;B7:410-3).⁴⁴

The Forest Service Officer-in-Charge at Waipoua agreed with the consolidation officers that most of the disputed land should be returned to Maori ownership (doc B8:)⁴⁵, but the proposal was not welcomed by his superiors. The response of the Director of Forestry to the proposal was that the Forest Service could not agree to the Crown interest being reduced, or to the return of any land without payment. He was willing to consider some readjustment of boundaries but repeated the view that the desirable outcome from the Department's point of view was the Maori interests be bought up. If this was not possible he stressed that Maori interests should be in areas that were of least danger to the indigenous and exotic forest areas, and he suggested swapping the Maori interest in 2B3B for areas in Crown land in 2B2B3 or 2B3C (doc B7:395-6)⁴⁶ which were completely unsuitable for farming (doc B7:389-90).⁴⁷

The failure to resolve the matter by correspondence or Land Court hearing (doc B4:73-5)⁴⁸ led to a petition to Parliament in 1937. It was presented in the name of Ata Paniora and Toa Mihi Paati and listed the Maori grievances in regard to the gifting of 2B3B, the partitioning of 2B3A and 2B3D, and the sale of timber on 2B3A (doc B7:317-20).⁴⁹ Under section 23 of the Native Purposes Act 1938 the petition was referred to the Maori Land Court for inquiry and report.

The inquiry commenced in July 1939 at Kaihu, under Judge Acheson. Lou Parore represented the petitioners and V Meredith acted on behalf of the Crown. Although evidence was heard on the 2B3B part of the claim (doc B4:76-98;B7:194-227)⁵⁰ the Crown was anxious to settle the matter out of the Court, and it was agreed not to hear evidence on the other matters. Meredith stated that "there was considerable merit in the claims" and that it was "obvious that a favourable report would probably have been made in each of them" (doc B9:12-6).⁵¹

A conference of the parties was held that day which agreed to a settlement of the 2B3A and 2B3D concerns. The settlement was complicated. An extra twelve acres was to be awarded to the owners of the 2A3D2A block, which still did not however include Pohe's old house and garden sites. In the neighbouring 2B3A block the Crown received part of 2B3A1 and gave up part of 2B3A2 bordering the river. An additional four acres was added to 2B3A2 in compensation for the timber the Crown had taken from that block, and road access was to be provided to the blocks affected. Later a separate agreement resolved the 2B3B concern by dividing the 2B3B1 block up so that the Crown received the land to the northwest of the river and the better land to the southeast of the river was vested in the Maori owners (doc B7:125-30).⁵² The various compromises were given effect at a Land Court sitting at Waipoua in January 1943 (doc B4:106-47).⁵³

A very critical view of the way the Crown had resolved the matter was given in March 1943 by Maori Affairs Commissioner Bell, who had been involved in land development issues at Waipoua since the beginning of the 1930s. In a confidential report to the Native Undersecretary he outlined what he saw as "an outstanding element of injustice resting on the Natives". He stressed that in his opinion the Maori owners, even after the petition settlement, had been deprived of 157 acres in 2B3D2 and 133 acres in 2B3A, because of the way the Crown had interpreted the original partitions in the 1920s. He concluded

In both the above cases at the original hearings on partition, the minutes are not very full and the Native vendors were not well represented at Court, nor does it appear that the Purchase Officer was at the Court, another Officer appearing for the Crown. The Natives afterwards developed their long standing grievance.

Although it is admitted that following the Petition these matters were dealt with by Court Report of 1941 ... it is possible that (the original vendors having died) the Natives interested being their representatives by succession probably had not the sound knowledge of the past that their deceased elders had and made the agreement in an endeavour to get something back of what in an uncertain manner they understood their parents had lost (doc B7:50-2)⁵⁴

Bell's report bought a sharp response from other departments. The Undersecretary of the Native Department forwarded the letter to the Lands and Survey Department and the Chief Surveyor replied that he was surprised that Bell had placed further grounds for grievance on record and that in his opinion the report "is a potential source for further petition, and I am strongly of the opinion that it should be expunged from the records of the Department" (doc B7:47).⁵⁵

3.5 The Kaipara Land Development Scheme at Waipoua

The history of Crown activity at Waipoua is dominated by the development of forestry and the related attempts to buy up the remaining Maori land. One notable exception to this general trend was the report and recommendations of the 1908 Stout-Ngata Commission (see section 2.4). Another was the introduction of land development schemes at Waipoua in 1931.

The Maori land development schemes of this period were again largely a result of the vision and effort of Apirana Ngata. He had returned to power in 1928 as

part of the new United Government and had immediately begun to channel funds into land development, as a way to provide an improved Maori economic, tribal and cultural base. The schemes followed the pattern of the Maori owners providing land and labour and the Maori Affairs Department provided a minimal wage and lent funds for development costs. During the period of development control of the lands passed to the Department (Kawharu 1977:29-33).

In May 1931 the 800 acres of Maori land left along the Waipoua river was gazetted as part of the Kaipara Development Scheme(doc:40-1)^{55A}, but little further information has been found about how the scheme was introduced and organised at Waipoua. The lands were later part of the Hokianga Consolidation Scheme and a number of consolidations were put in place, with the intention of creating at least four economic holdings (doc B7:53)⁵⁶

The work of the local consolidation officers did help local Maori farm development. The Maori attitude to these officers is not recorded, and they were possibly regarded with the same distrust as other Crown agents. But the Consolidation Officer were keen to see the Department of Maori Affairs do more for the Waipoua settlement which, he said in 1931, "had apparently been little known to the Department" (doc B6:44).⁵⁷

The officers lobbied for the return of potential farm land through repartition and exchange. In Cooper's opinion such Crown action would not only provide needed land but would be:

a graceful gesture to these rangitiras who have refused to leave their old homes and kaingas for what might have appeared, in more prosperous days, an easier life with their fellow pakehas nearer to civilisation (doc B6:50)⁵⁸

Cooper and his fellow officers were strong supporters of the Maori protest and of the Parliamentary petition of 1937 seeking readjustment and extension of the boundaries of the Maori portions of 2B3B, 2B3D and 2B3A (doc B7:410-3)⁵⁹

Although some new farming began in the 1930s the farms eventually failed. Lack of easy access and insufficient farm size were probably the main reasons the farms could not be economic. But whatever the eventual result Ngata's land development scheme at Waipoua was, like his efforts in 1908, in marked contrast to the main lines of Crown policy and practice towards the Maori of Waipoua.

IV WAIPOUA FROM 1940

4.1 Waipoua Since 1940

This section gives a brief overview of Waipoua history, with particular emphasis on Crown policy and practice, since the Second World War. It is based on limited research and does not pretend to be comprehensive. The following sections provide some background to issues specifically addressed in the Claim before the Waitangi Tribunal.

There was an increase in the number of Maori living at Waipoua in the 1930s and early 1940s. Some indication is given in the records of the Maori school which opened in the valley in 1946. There were 24 Maori children aged from 5 to 15 listed as attending,¹ while a school inspector's report of 1943 listed the Yakas, Nathan, Pumipi, Paniora, and Birch families living at the settlement. The Nathans and Panioras were described as farming their properties with Mr Pumipi and Mr Birch working for the Forest Service.² The Tane family continued to live at Waikara at the southern end of the old Waipoua No2 block.

It was in these years that benefits of the work of the consolidation officers was most evident. Some of the river valley was now cleared pasture land supporting dairy herds and other stock. It was a very different landscape from that of today where these former farmlands are now covered in pine plantations. Successful farming, however, was always difficult. One reason was access problems. In 1946 the local school teacher on behalf of the Waipoua residents seeking better access, wrote:

This settlement I might stress is a very fertile valley and in the past a large number of cows have been milked, but as the cream had to be packed out by horse a distance of seven miles to the main road before the delivery of the cream, the resultant grade of cream was so poor and rejections so frequent that it became unprofitable. The herds have been turned out and practically nothing comes out this valley.³

Although he implied better access would see a resurgence of farming, it is likely that the remoteness of the valley and the small size of the holdings was always going to make economic dairy farming difficult. Eventually what had been farmed reverted to scrub or was bought up by the Forest Service for plantations.

A 1958 comment by a later teacher suggests the declining opportunities for a living at Waipoua and the resultant decline in population. He described the school's falling roll, and said,

the possibility of other families moving in is remote. The residents have insufficient land to farm and their only prospect of employment is with the State Forest Service, where there are few opportunities.⁴

The school itself was closed that year.

The Forest Service continued to be a dominant influence in the valley. During the 1940s there was a steady expansion of the pine plantations surrounding the Waipoua river and valley. The early 1940s were particularly busy years for planting, but most other years since the mid 1930s saw on average 100-200 acres planted per year. By the mid 1950s over 5000 acres had been planted. Logging of main crops began as the pines began to mature in the 1960s. This work, and pruning and thinning, continued to provide some limited work for Maori residents and their families.

The Forest Service continued to acquire Maori land, although not with the same vigour as in the pre-war years. The most recent purchases took place in the 1960s and early 1970s. The first block to go was 2B3B1B. This was land that had been part of the agreement arising out of the settlement of the 1937 petition to Parliament. Since 1946 it had been leased to Nick Yakas, the husband of one of the owners, and in 1958 the owners had agreed to sell the block to him (doc B9:53-61)⁵, although the sale could not be registered as such transactions were blocked by the prohibition on private alienations that was still in force (see section 3.3). Yakas was near retirement and offered to sell the land to the Crown. It was eventually bought and declared State Forest in 1961 (doc B3:50)⁶, although how the purchase got around the prohibition problem has not been researched.

The second block to be purchased in these years by the Forest Service was 2B3A1B. Like the Yakas block this was also land that had been at the heart of the Maori protests of the 1930s. By the 1960s the block was solely owned by John Te Rore who was living at Whangarei. He offered the land to the Forest Service in 1964.⁷ The Maori Affairs Department considered the price offered too low, and thought that a neighbour, Mr Birch, might be interested. However, the sale went ahead and the land set apart as State Forest in 1966 (doc B3:56).⁸ The sale meant that the two remaining areas of Maori land in the valley were separated by State Forest.

The last area purchased by the Crown was 2B3C1 in 1973. Like the other two blocks mentioned above, this too was fertile river land that had been regarded as best for Maori use and land development in earlier years. The Crown had acquired some interests in this block before the 1940s, and in subsequent years the Lands and Survey Department negotiated to purchase the remainder on behalf of the Forest Service. There was interest by some owners in retaining the land and buying out other owners, but these attempts failed, and were prohibited anyway under the prohibition on alienation until 1973. The land was finally purchased by the Crown in 1973 (doc B:98-108).⁹

With these purchases, and the steady increase in pine planting, the landscape at Waipoua gradually changed. Farm and scrubland was turned into plantation, and today the pine forests completely enclose what is left of the Maori lands in the valley. The landscape has completely changed from what it was. To residents there is some irony that their homes are now surrounded by forests, with some potential fire risk, when the original basis for Crown land purchase at Waipoua was to protect the kauri forests from the alleged fire risk provided by Maori settlement.

Pines now also cover the area known as the kumara paddock, which was the site of Pohe Paniora's original house and gardens and the subject of the original

dispute with the Crown over 2B3D block in the 1930s. The Forest Service had always insisted that these lands were necessary for horse paddocks, an administration site, or a sawmill. Although the land was never used by them for these purposes, a request to lease the land by one of the Waipoua residents in 1977 was turned down in favour of leasing the land to the Aranga School for pine planting.¹⁰

Throughout these years the Forest Service operation at Waipoua was steadily upgraded. New houses, workshops and forest roads were constructed. Electric power was connected to the headquarters in 1955, although the Maori settlement is still without power or telephone. Another aspect of Forest Service activity, which is looked at elsewhere in this report, is the introduction of an archaeological programme in the late 1970s (see section 5.2).

While exotic forestry developed and prospered, the Forest Service administration of the kauri forest at Waipoua underwent major change when the Waipoua Kauri Forest Sanctuary was set up in 1953. There had been a strong environmentalist campaign to protect the forest since about 1932. This campaign had been strongly resisted by the Forest Service, who favoured continued silviculture management with selective logging when required.

To advise the Forest Service on the future management of the sanctuary, the Government established a Sanctuary Advisory Committee. The Committee includes the two local Members of Parliament and the Hokianga and Hobson County chairpersons. Although Lou Parore had been involved in the campaign to protect the forest from the 1930s, there is no provision for Maori representation on the Committee. In recent years the Committee has seldom met.

Further south, towards the Waikara end of the Waipoua No2 block the main Crown activity from the mid-1950s was land development for farm blocks. The details have not been researched but the Lands and Survey Department purchased most of the old 2A blocks that had been bought by private purchasers in the 1910s (see section 2.5) and began farm development work. Most of these lands have now gone back to individual farmers.

This farm development also had implications for Maori land ownership, for in the late 1960s the Department of Lands and Survey decided to purchase the remaining Maori land at Waikara to enable it to expand its development operations.¹¹ By 1971 the Crown was actively negotiating for purchase, although there had been little interest in sale by the owners and major shareholders were strongly opposed. The constant pressure to buy brought protest from some of the main owners. Eventually the Crown was only able to purchase part of the land, and some was sold back to the remaining owners after the old prohibition on alienation at Waipoua was removed in 1973.¹²

There are few jobs at Waipoua since the restructuring of the Forest Service. While a recent attempt at larger scale horticulture was unsuccessful, and there is only limited farming, in recent years there has been a resurgence of the Maori community at Waipoua. New marae have been built - Pahinui and Matatina in the Waipoua valley and the Tane family marae at Waikara. Some families have returned to the area and the population is again close to what it was in the early 1940s.

4.2 Access Issues

One part of the claim before the Waitangi Tribunal concerns the question of legal access to the Waipoua settlement and to other places at Waipoua. This part of this report looks briefly at the history behind this part of the claim. The issue goes back to the 1920s and these early events are included here for convenience.

At present road access to the settlement is through the State Forest by either the River or No1 Road which passes the Forest headquarters, or by the Waipoua Settlement Road which is a public road leaving the state highway at Katui and running to a gate at the edge of the forest land where it becomes a forestry road called the Katui or No3 Road. Although the residents of the valley have always used them, all these roads except the Waipoua Settlement Road are private forestry roads. Within the boundaries of the State Forest the Maori blocks are joined by a public road called Tiopira or Birch Road (No17). This road is not maintained by the local council and the Forest Corporation provides minimal upkeep.

Before the construction of the Hokianga-Dargaville main road in 1928 access to Waipoua had been by a network of horse tracks or along the beach. Maori residents had requested the new main road be built along the coast, which would have provided much better access for them¹³, but their wishes, and those of the Forest Service who were reluctant to have a road through the kauri forest, were overridden by the wishes of the Public Works Department and inland settler interests.¹⁴

In 1931 a visiting consolidation officer described access to the settlement from the main road as comprising five miles of clay road and then a horse track for about six miles.¹⁵ At about this time the horse track was upgraded by Waipoua residents (doc B8:123-4)¹⁶, but it is not certain if the road was made suitable for vehicle access. The road was still little more than a track in the late 1930s (doc B7:227).¹⁷ It was accessible to vehicles by at least the mid-1940s but was still well below Public Works standards.¹⁸

Maori concern has always been not just with the state of the road but with the fact that, as a forestry road the Forest Service had the right to deny access. Although the Forest Service generally recognised the right of tangata whenua to get to their land, they were reluctant to allow free access because of the perceived danger of fire, and for many years residents and their visitors had to obtain permits or risk being stopped by forestry staff. From the 1940s there were a number of petitions and representations from local residents seeking a commitment to maintaining a legal road to the settlement, but the Crown generally failed to support moves to provide legal access. This history has been researched in detail in another report (doc B2:54-60).

Earlier this year the matter was brought before the Tai Tokerau Land Court by Alex Nathan. Judge Spencer directed that direct negotiation with the Forest Corporation be undertaken and at the present time this is still underway. These negotiations however only concern legal access to the settled areas. The current claim is also concerned with access to wahitapu areas within the Waipoua Te Roroa area.

4.3 The Restructuring of Crown Agencies at Waipoua

On April 1 1987 there was a radical restructuring of New Zealand Government agencies. Subsequent policies of these new agencies have aroused Maori concerns that are included in this claim before the Waitangi Tribunal. This section briefly summarises some of the events behind these concerns.

With the restructuring of the Forest Service at Waipoua the administration of the exotic forest areas passed to New Zealand Timberlands Ltd, the subsidiary of the Forestry Corporation dealing with, among other things, the planting, silviculture, and harvesting of Crown commercial forests. One effect already mentioned was a big reduction in staff and employment opportunities for local residents.

There was widespread Maori opposition to the proposed transfer of Crown assets to State Owned Enterprises because of the likely difficulty in resolving Maori claims against the Crown when land and resources passed out of Crown title. This concern led to the successful New Zealand Maori Council Court of Appeal case which in turn produced the settlement between the Crown and Maori parties now reflected in the Treaty of Waitangi (State Enterprises) Act 1988. The part of this agreement of particular relevance to Waipoua were the provisions relating to the protection of wahitapu. The proposed transfer had been seen by the Maori parties as likely to threaten the protection of wahitapu, and one of the main examples provided was the Waipoua wahitapu information supplied by Alex Nathan and others (see section 5.1). The new Act subsequently included provisions for the resumption of wahitapu.

In fact state forests were never transferred to Forestry Corporation ownership, apparently because the Crown and the Forestry Corporation failed to reach agreement over the value of the Crown forest assets. In 1988 the Government instead announced plans to directly privatise the forest assets. This would bypass the provisions of the Treaty of Waitangi (State Enterprises) Act 1988 designed to protect lands under claim. A Forestry Working Group was set up to recommend how it should be done. Its report paid particular attention to Treaty of Waitangi issues and in this regard the Group's report stated that forestry land should remain in Crown title with the management and cutting rights only being sold. The report recommended that the Government consult with Maori over the sale arrangements. In March 1989 the NZ Maori Council gained a ruling from the Court of Appeal that the proposal to sell cutting rights was a matter that could reopen the case originally taken against the Crown to prevent the transfer of lands to SOEs without safeguards for claimants. The Court also stressed that full consultation with Maori was needed on the issue of cutting rights and that they should not be presented with a fait accompli. A draft settlement has evidently been reached between the Council and the Government but the details had not been made public at the time of this report.

Since 1987 the Te Roroa-Waipoua Archaeological Advisory Committee has been having ongoing discussions with Crown officials over the question of the identification and protection of wahitapu at Waipoua, and this lobbying has been successful in stopping the Waipoua forest from being included in the

proposed asset sale programme. In March 1989 the Minister of State-Owned Enterprises wrote to Alex Nathan saying that:

Cabinet has decided that in view of the particular circumstances existing with respect to the Waipoua forest, the forest will be withdrawn from the current forest asset sales programme.

I understand the Waitangi Tribunal is likely to consider claims to the Waipoua forest area later this year. In light of this, the Government's decision will be reviewed after the Tribunal has made its deliberations, or during 1991 if the Tribunal has not then considered the issues (doc B14).¹⁹

With the 1987 restructuring the non-commercial assets of the Forest Service passed to the Department of Conservation which, like the Forest Corporation, had come into existence in April 1987. In addition to the functions taken over from the old Forest Service the Department took over the natural land resource management functions and activities formerly carried out by the Department of Lands and Survey and parts of the Department of Internal Affairs. The main Act administered is the Conservation Act 1987. Of particular relevance to the claim is section 4 of the Act which states that it is to "be interpreted and administered as to give effect to the principles of the Treaty of Waitangi".

At Waipoua the new Department took over control of the Waipoua kauri forest, as well as a strip along the coast. The Department also took control of an area proposed as an archaeological reserve within the exotic plantations (with the Forestry corporation maintaining cutting rights) and archaeological work previously done by the Forest Service was also taken over by the Department. This work has recently been scaled down. The management of archaeology at Waipoua is a concern of the claimants and is discussed in detail in the next chapter.

A recent development which is also a subject of the claim is the Department of Conservation proposal to include the Waipoua kauri forest in a proposed Northland Kauri National Park, encompassing a wide range of forests, scenic reserves and historic reserves throughout Northland. Much of the investigation of the proposal has been done by the Kaikohe office of the Department, with the support of the Northland National Parks and Reserves Board. A preliminary report released by the Department in December 1988 stated that the principal objective was to recognise, promote and protect kauri forest ecosystems as a cultural and historic heritage of national importance (doc B15:5).

Claimant concern is that the proposal as it effects Waipoua has been developed without sufficient consultation with Te Roroa, and that the proposal has meant earlier discussions about an archaeological reserve and site management arrangements at Waipoua have been neglected. At last report the proposal had been taken over by the Department of Conservation head office and the release of a public discussion document has been held back pending consultation with the Tai Tokerau District Maori Council and the five iwi authorities in Northland.

V WAHITAPU AND ARCHAEOLOGY AT WAIPOUA

5.1 Overview

The claim before the Tribunal contains several sections regarding the protection of wahiapu and taonga at Waipoua. These reflect Te Roroa concerns that past and present Crown actions are alienating them from their wahiapu and other taonga. There is also concern that the whole legislative framework for protection of wahiapu and taonga is inadequate.

The following notes relate to legislation affecting the protection of taonga and wahiapu. This section is to aid the reading of the text. It does not attempt to be exhaustive, and should not be taken as anything other than a background to this chapter. It is recognised that other acts may also be reviewed by the claimants.

The Historic Places Amendment Act 1975 sought to achieve greater protection of archaeological sites by providing that a site could not be modified, damaged or destroyed except with the consent of the Historic Places Trust. "Where appropriate" the Trust could require the concurrence of Maori for the investigation of a site.¹ The Historic Places Act 1980 (doc B17(a)) tightened up the provisions of the section of the 1975 Amendment Act regarding archaeological sites, clearly specifying that permits were required to investigate an archaeological site, and authorities were required to modify or destroy one. Essentially the same limited provisions regarding Maori consent applied. The 1980 Act also distinguished between archaeological sites and traditional sites, where the latter is interpreted as a place or site of historical significance or spiritual or emotional association with Maori. Again there is no specification that Maori necessarily be consulted with respect to protecting or preserving a traditional or archaeological site. This Act is now administered by the Department and Minister of Conservation. Section 4 of the Conservation Act requires consideration of the Treaty of Waitangi when administering the Act, but how far this provision would affect the administration of the Historic Places Act is uncertain.

The Antiquities Act 1975 (doc B17(b)) provides for the protection of antiquities from sale overseas or into private hands within New Zealand. Antiquities are defined to include "artifacts", which are deemed, in the first instance, to belong to the Crown, with the Maori Land Court having jurisdiction to determine other people as owners or trustees of the artifact if it comes from a known grave site or "actual or traditional ownership, rightful possession, or custody" is claimed. Therefore, while Maori artifacts are given some protection under this legislation, Maori must challenge the presumption in each case that the Crown owns and controls any artifact. The Secretary of Internal Affairs is the chief administrator and custodian under the Act, but is not specifically required to consult Maori in this administration. The Act also sets up a system of registered collectors of artifacts. Only a registered collector may have custody of any artifact. The Forest Service was a registered collector of artifacts, however, they no longer exist and there is uncertainty over what body is at present accountable for the artifacts formerly held in their name. Currently Te Roroa's application to become a registered collector of these artifacts awaits reply (see doc B25:232-253).

Of significance also is the Treaty of Waitangi (State Enterprises) Act, 1988. Under this Act wahiapu are to be marked on the ground, surveyed and declared Maori Reserves under provisions contained within the Maori Affairs Act. The

Act defines wahitapu as being land of special spiritual, cultural, or historical tribal significance. Wahitapu so identified, in a manner acceptable to both the Crown and tangata whenua, will be excluded from land transferred to State Owned Enterprises.

Of this chapter, section 5.2, 'Wahitapu' attempts to outline the history of Te Roroa concern regarding their wahitapu. This particular history begins with the planting of pine trees on the land in 1924. Section 5.3, 'Archaeology at Waipoua' gives a summary of archaeological work at Waipoua, and includes our understanding of the basic standpoints of the Forest Service and the Historic Places Trust before the restructuring. Section 5.4, 'The interim Te Roroa - Waipoua Archaeological Advisory Committee' (TRWAAC) summarises some of the key issues discussed by this Committee of Te Roroa, Forest Service and Historic Places Trust representatives, who first met in 1985 to oversee the management of archaeological sites within Waipoua. The final section, 'Recent Developments' looks at what happened following the 1 April 1987 restructuring of government departments, and concludes with a summary of contemporary Te Roroa opinion of the events which have taken place. Each of the sections is a brief history within itself, given in order of its occurrence at Waipoua. The sections are all interrelated.

5.2 Wahitapu

Te Roroa wahitapu encompass Waimamaku, Waipoua, Maunganui, Kaihu, Wairoa and Tokatoka. Over 100 tapu places have been identified. Wahitapu do not refer solely to burial grounds, but also to places where after birth has been buried, where cleansing ceremonies were performed on occasions of tangi, warfare and exhumations, where pa sites and papakainga were, where canoes landed, where an important expedition was begun; any land of special spiritual, cultural or historical tribal significance is a wahitapu. It has been stated that

According to our kaumatua, kuia and tupuna the whole of Waipoua is tapu. All the valleys leading down into the main valley, all the streams feeding into the main river, these are all tapu because of the mauri and mana attendant to and imbued in them (doc B19:2, Nathan 1988:2).

Historically many Maori have been reluctant to divulge information regarding the location and significance of their wahitapu. This was not done merely to withhold information, but was a mark of the extremely high value and tapu nature of these places.

Maori attitudes to knowledge are significantly different from that of the Pakeha. According to Pakeha custom, knowledge is available to all who seek to learn. In Maori custom however, certain people are experts in certain areas. Kaumatua are the repository of knowledge on wahi tapu. The concepts of wairua and tapu require that knowledge of wahi tapu may be available to members of tribal groups but not necessarily to the public at large (doc B25:231B).²

As a result wahitapu were rarely, if ever, discussed, except when their very existence was threatened by sale or development. More recently it has been recognised that wahitapu are seen to be some of the very few taonga left to Maori alone (doc B19, Nathan 1988).

At Waipoua, large-scale disruption of the wahitapu first began in the 1920s when the New Zealand Forest Service commenced clearing the native bush and scrub, and planting pine trees in its place. Ned Nathan, a Te Roroa kaumatua, held clear memories of some of the events of this time. He stated that his parents and grandparents recognised the importance of certain areas "but they didn't talk about them". Ned Nathan said that

When they (the FS) first started here in 1924, I can remember my grandmother and her two sisters begging that these places not be planted. I can remember them crying because it hurt them. They thought that it was hoisted upon them and they had to accept it. There is no need for that sort of thing now. We are people coming together, recognising the merits and good of both people...It's a pity this didn't happen earlier (doc B22:5).³

At present this is the earliest documentary reference to Waipoua Te Roroa feeling regarding the disturbance of their wahi tapu by Crown actions.

Over the years a number of incidents of local Maori protest were recorded by European officials. For example, Taroara Enoka Te Rore Taoho (Enoka Te Rore)⁴ wrote a letter of complaint in 1939 to the Acting Native Minister stating that the wahi tapu of Waipoua, specifically an area referred to as a 'Wahi Tapu Reserve' within Block 2B3A2 (apparently referring to the wahitapu, Waipoua 2C, and adjacent areas where the burials were actually contained), was being disturbed by State Forest works such as firebreak construction, despite an impending court hearing on the 1937 petition to Parliament (see section 3.4). Enoka Te Rore claimed that he had informed the State Forest employees of this, yet the matter seemed "of no importance to them" (doc B7:247-8).⁵ In addition to Enoka's letter, both he and Pohe Paniora spoke to Forest Ranger Collett by telephone that day regarding Block 2B3A2 and part of Block 2B3D2B, requesting that the burning and other works by the State Forest Service cease until a court decision was made.⁶ However they were unsuccessful. Collett replied that only a part of the area of concern, the Waipoua River flats, were to be dealt with by the Court; therefore operations would continue.⁷ Enoka Te Rore and Pohe Paniora were asked 'to withdraw any opposition to preparation of the back portions of the area for planting as this could not possibly be affected by their petition'.⁸

In 1947 Ata Paniora wrote to the Registrar of the Land Court expressing concern about certain Maori Land near the sea called Waiarara Wahitapu, of around 55 acres, between Waipoua and Te Koutu, which he had heard had been sold (doc B25:337-8).⁹ The Registrar replied that there was no record of any such reserve and advised Ata to raise the matter with his local Committee dealing with Surplus Land Commission matters (doc B25:339).¹⁰ Over two years later, Ata Paniora again wrote to the Registrar of the Maori Land Court, this time to advise him that the wahitapu of Haohaonui and Waiarara, containing the bones of their ancestors, were being planted in pine by the Forest Service. The Officer-in-Charge had agreed to stop planting. Ata also asked for a copy of the old list of trustees so that it could be updated, and requested a copy of the map of the Wahitapu Reserve (doc B25:340).¹¹ Again the Registrar could not find Maori title for the two areas named and could supply no map or list of trustees (doc B25:341).¹²

Information given by the tangata whenua to the Forest Service regarding wahitapu was not always left unresolved. The Waipoua Forest Journals written during this period contain further references to wahitapu, and appear to record the placement of a rahui on the areas of significance to Waipoua Te

Roroa. In 1949 it was recorded that Ata Paniora was to demarcate three wahitapu in the Forest Service Compartment 18.¹³ In 1951 the proposed 6.3 acre Wahitapu Reserve along the Haohaonui Stream was discussed with Ata, and it was agreed that the area was to be excluded from future planting or other use, that "A prescription to this effect will be included in any Forest Working Plan for Waipoua Forest" and that boundary lines would be cut and corners marked with "solid totara posts" (doc B25:1).¹⁴

Kawerua was another area where Maori concern about wahitapu is recorded. In 1952 Ata Paniora spoke with the Forest Service regarding wahitapu there, and pointed out places where there had been some settlement by very early Maori and where burial caves were, now blocked with sand (doc B25:2).¹⁵ This particular concern is inseparable from an old boundary grievance in connection with the size of the Koutu block at Kawerua, which is not dealt with in this report (see doc B16).

During the 1980s awareness of the importance of preserving as many wahitapu as possible led to the desire to save not only each individual site in an ad hoc manner as it was threatened, but to create a situation where tangata whenua would have direct input into the management of all Maori sites for future generations.

By this time the Forest Service was employing archaeologists at Waipoua (see section 5.3). Ned Nathan had taken part in a tour of inspection of the sites recorded by the archaeologists with the Auckland Conservancy Archaeologist, Ian Lawlor. Ned was concerned that sites should not be exposed unrestored, but should be brought back as near as possible to their original state and presented with dignity. On 24 January 1985 he wrote to the Minister of Forests, expressing Te Roroa concerns regarding wahitapu and suggesting that Te Roroa hapu form a trust, so that traditionally sacred sites could be declared reserves and administered jointly by Te Roroa and the Forest Service or handed back to Te Roroa alone for administration (doc B25:10-3).¹⁶ He also suggested that Te Roroa be employed, not only as labourers, but also as technical (traditional and historic records investigators) advisors and/or assistants. Ned envisaged that the tangata whenua would be encouraged to remain on the land, and eventually to conduct tours of the sites, as they would most likely be the best qualified to speak about their background to visitors. After pointing out that it is the Maori custom to "believe in nature taking care of everything" by putting a tapu, or restriction on particular areas to protect it, Ned stated

I believe we should expose what is there, and protect it. As long as it is protected for the good of all people, and that our people get a fair say in the decision making, I would be quite happy (doc B22:52).¹⁷

and

...decisions should be made in Waipoua, be passed down the line, and then something returned that we can all agree with: "The decision should be made here I think. In fact, I would insist that we have the final say"(doc B22:78).¹⁸

At this time it seemed that close cooperation between Te Roroa and the archaeologists would be possible. The setting up of a trust promised to provide a way whereby there could be consultation between tangata whenua, the Crown and the professional interest of archaeologists (as the Minister's reply suggested that Te Roroa consult with not only the Forest Service, but also the Historic Places Trust - doc B25:17-8).¹⁹ A history of archaeological work

and of the Advisory Committee which formed from the idea of a trust, are the subject of sections 5.3 and 5.4 of this chapter. The basic principles articulated by Ned Nathan run through to the present day, although Te Roroa now feel the need for a more assertive independent stance.²⁰

The reasons for this change in attitude are many. It was felt that tangata whenua interests were not being given enough weight within the TRWAAC. Two factors can be identified as underlying the dissatisfaction which developed. The first was the fact that there were three parties, each with their own aims and objectives in the management and investigation of prehistoric and historic sites, combining to form one body: the interim Te Roroa - Waipoua Archaeological Advisory Committee. A further complication arose with the April 1987 restructuring of government departments. Before, during and directly after this date neither of the Crown agents were willing to commit themselves to a continued position regarding the sites at Waipoua.

5.3 Archaeology at Waipoua

The importance of wahitapu and other taonga to Maori is intimately linked with the lives of their ancestors. For Maori these places and things are of great significance. This section identifies the conflict of interests between archaeologists of the Forest Service, whose primary task is to manage archaeological sites, and those of the Historic Places Trust whose main interest is in the scientific investigation of sites. These two interests themselves, of course, often conflict to varying degrees with the concerns of Maori.

Archaeological sites form a continuous landscape along both sides of the Waipoua River, within both the indigenous and exotic forests. They include a network of stone structures, pits, terraces, pa etc which remain well preserved despite the clearing, burning and planting which occurred in the exotic plantations and in experimental plots within the indigenous forest.

Initial archaeological work at Waipoua began around 1970. In 1973 it was stated that site locations within the Waipoua region had been recorded mainly by the New Zealand Forest Service (Atwell, Puch and Lawn 1973:103). Archaeological work was not, however, part of Forest Service policy at that stage. At this time protection of archaeological sites did not occur unless integrated into a local authority planning scheme, or achieved through the cooperation of a public or private organisation or of individuals (Daniels 1979:3).

The Historic Places Amendment Act 1975 heralded a change in the Forest Service policy, from occasional observance of some of the wahitapu disclosed by tangata whenua, to a more concerted observance of the legislation which sought to protect archaeological sites from modification, damage and destruction. The legislation, however, can not always achieve site protection, and some sites have been damaged during forestry operations (doc B25:5-9,161-4);²¹ although it has been recognised that "preservation of archaeological sites is just as important as any other management operation" (doc B25:9).²²

In 1978 John Coster and Gabrielle Johnston came to Waipoua as Conservancy Archaeologists for the Forest Service. They were followed by a number of others. An 'A, B, C' site classification system was formulated in order to

meet the requirements of the Forest Service. Class 'A' sites were to be permanently protected, those classified 'B' required further investigation, and those with 'C' status could be modified or destroyed once authorisation was obtained from the Historic Places Trust.²³ This early work culminated in 1983 with a report by John Coster (doc B20), which aimed to ensure effective protection of a sample of the many archaeological sites in Waipoua State Forest, without interfering to an undue extent with the effective management of exotic plantations within the Forest. Coster stated that

The presence in the Waipoua valley of numerous archaeological sites, many of which were planted in pines between 1938 and 1966, has resulted in a management situation of some complexity (doc B20:2).

and identified that

From the viewpoint of a research archaeologist, it would be desirable to preserve as large and representative a sample of sites as possible, while from the forest manager's viewpoint a major aim should be to avoid having large numbers of sites, whose management is continually conflicting with forest operations, scattered throughout the forest (doc B20:3).

The viewpoint of Te Roroa in comparison was not formally expressed. Coster then proposed that an archaeological reserve be created within which sites were to be given permanent protection. The proposed reserve would encompass approximately half the then known archaeological sites, and include both sides of Waipoua River. A substantial sample of the remainder of the sites, it was suggested, were to be investigated before modification, over a period of 3-4 years. It was postulated that the information gained about prehistoric horticulture and settlement in the valley should amply compensate for the eventual loss of half the known sites. The report met with the general agreement of the Historic Places Trust Senior Archaeologist (doc B25:113).²⁴

The Waipoua Archaeological Project followed Coster's report. Te Roroa valley residents, their families, and Forest Service staff and archaeologists took part in whakanoa ceremonies performed by the Reverend Maori Marsden in April 1985 at its inception. The principle sites in Compartments 5 and 15, due to be logged, were blessed, as were the valley sites as a whole. The project reflected a new relationship between Te Roroa and Forest Service archaeologists to which both Ned Nathan and Ian Lawlor have contributed greatly. The Project included four stages during which logging was supervised and sites were surveyed, recorded, excavated and mapped.

Essentially, Forest Service interest in archaeology was in response to the existing legislation. Timber is sold prior to logging, and the Forest Service is committed to logging certain areas within a given time span. In order to begin work they are required by the 1980 Act to apply to the Historic Places Trust for authorities allowing archaeological sites to be modified (logged), and permits allowing such sites to be investigated (excavated), if damaged during logging (doc B25:311-336). However, with increasing applications for permits and authorities from the Forest Service at Waipoua, and an invitation from the Conservancy Archaeologist to visit the sites at Waipoua, the Historic Places Trust resolved that some members of their Archaeology Committee together with the Historic Places Trust Regional Archaeologist, visit Waipoua to discuss the long term preservation of the sites (doc B25:158).²⁵ The issuing of any further authorities and permits was deferred until after the site visit (see doc B25:115-7).

The visit of the Historic Places Trust Archaeology Committee to Waipoua was held 28-29 June 1985. Forest Service employees hoped it would determine the archaeological significance of the sites, so that costs could be justified. They wished to obtain an indication of the possible time scale of the project, and of the financial or personnel resources that the Historic Places Trust would contribute in native bush areas "where modification of the sites from forest management activities is not an issue" (doc B25:165).²⁶ The Historic Places Trust, took a more distant role than Forestry had anticipated. They were concerned to justify the issuing and requirements of permits and authorities, and to discuss future management of the sites with the Forest Service and tangata whenua (doc B25:115, see also B25:166-174).²⁷

Following the site visit, the Chairman of the Historic Places Trust Archaeology Committee wrote to confirm that the sites at Waipoua constituted a complex of archaeological features deserving of protection and management. He also outlined the existing situation agreed upon by all parties

1. Forestry are prepared to reserve the main areas of sites from future commercial operations. The actual areas would be defined on the basis of a forthcoming report of the conservancy archaeologist.
2. Forestry will log the sites in exotic forest using the least damaging techniques and under the supervision of an archaeologist.
3. Following logging Forestry will replant the site areas and manage the growth for site protection and interpretation.
4. The Conservancy Archaeologist will outline a plan for the management of the sites to include selected investigations aimed at testing the implications of different logging techniques, to determine the nature of certain sites, and future site surveying and recording and that in general Forestry would provide the funding. Expert advice and assistance would be sought when appropriate from archaeologists employed by Auckland University and the Historic Places Trust.
5. Forestry would consult with an Advisory Committee (below) in the matters of future investigations, protection, interpretation and public access.
6. The Advisory Committee, convened by Mr Ned Nathan, would consist of two representatives each from the tangata whenua, the Forest Service and the Historic Places Trust.
7. All parties recognised the need to get the proposal into operation with the least delay (doc B25:175-6).²⁸

The Assistant Conservator's reply indicated the Forest Service's agreement with the above, and stated

We will investigate and plan for the future management of the sites within the exotic forest at Waipoua on a priority basis. Those sites within the indigenous forest will be investigated as and when our archaeologists have time available from their other duties (doc B25:177-8).²⁹

He also asked for an informed opinion to be given regarding site significance, as this "would assist in determining the effort to be put into the whole project and to justify the costs that will be involved". After repeated requests, the Historic Places Trust Archaeology Committee resolved that Dr Bulmer and Dr Smith be asked to prepare a statement on the regional and national archaeological significance of the Waipoua Valley Complex (doc B25:158).³⁰ Dr Smith's paper in response to this, which stated that the sites could be considered "of major significance on both a regional and national level", was forwarded to the Forest Service as the Trust's statement

of site significance (doc B25:48-57 and B25:159).³¹ Tangata whenua statements regarding site significance have suggested that they felt the importance of the sites was self-evident. All sites in their eyes, were equally important.

Subsequent letters and reports did not substantially alter this stance. The Waipoua Archaeology Project continued to further define the reserve and the management of sites. In fact the Conservancy Archaeologist re-stated the Forest Service position emphasising the importance of site management to the Forest Service as opposed to archaeological research early in 1986

The FS presently has no intention of immediately setting up a major research/excavation project to investigate the Waipoua sites other than the work already proposed by Michael Taylor and Ian Smith. The emphasis will continue to be placed upon the investigation and management of sites on priority basis (doc B25:183).³²

The Forest Service's attitude toward site management has brought much praise, both from the Historic Places Trust Archaeology Committee (doc B25:47 and 175-6)³³ and from the Waitangi Tribunal, who have stated that

The NZ Forest Service is aware of its statutory responsibilities to safeguard and respect archaeological sites, traditional sites, historic areas, Maori artefacts and human remains within State Forests... In reviewing the work of the Forest Service officers at Waiuku and especially of the archaeologist Mr Lawlor, we were favourably impressed. There has been full consultation with the local people, some wahi tapu (sacred places) and urupa (burial grounds) have been identified and surveyed... (Manukau Report, 1985:80-81).

Despite commending the Forest Service, the Historic Places Trust wanted a firmer commitment to research-based archaeology in any management plan. Without having received a report outlining the reserve proposal and the initial management plan from the Conservancy Archaeologist (see doc B25:179-184)³⁴ the Historic Places Trust allowed archaeological work to continue, including large scale excavations of sites N18/179 and N18/186 (Pawherowai, situated on the valley slopes) in December 1985 by students from the University of Auckland Anthropology Department Field School, and tangata whenua, under the direction of Dr Ian Smith of the University of Auckland. From this point tangata whenua were actively involved in most aspects of archaeological work at Waipoua, both voluntarily and through employment as archaeological field assistants, advisors and researchers. Children from the valley Correspondence School unit have taken part in archaeological fieldwork also (Nathan 1988:1).

Ian Smith's involvement in the Waipoua Archaeological Project had been at the invitation of the Conservancy Archaeologist, as it was evident that the scope of the work was beyond the resources and personnel of the Forest Service. Ian Smith's work, which included clearance and mapping of sites, at this stage was to supplement the Forest Service work, and was funded by the Forest Service.

The Historic Places Trust position with regard to archaeology, stressing the importance of research at Waipoua, developed from the reports of the Regional Archaeologist, Dr Susan Bulmer, although this was not their first knowledge of archaeology at Waipoua.³⁵ Based on her attendance of the inaugural meeting of the TRWAAC and reading of the Stage 1 Waipoua Archaeological Project draft report, Dr Bulmer suggested to the Historic Places Trust Archaeology Committee that a Maori or Historic Reserve for the entire valley be sought urgently.

She stressed the need for a programme of excavation to establish the form and functions of the various features recorded so far and to study features not visible on the surface of the ground. The Regional Archaeologist envisaged an initial year-long project, followed by a long-term project (to be based on the original proposal by Coster, doc B20 see B25:66-98). The longer term project was to relate the sites at Waipoua to the larger Auckland-Northland region. Dr Bulmer suggested the project leader be a scientific Historic Places Trust staff position, funded by the Forest Service, similar to that funded by the Ministry of Works on the Clutha Valley Project. She also envisaged that the three parties could work together to provide an educational historic reserve worthy of public presentation, and stated

This will enable the public to gain appreciation of Maori values and archaeological methods and materials at the same time. A most attractive and potentially rewarding project is thus presenting itself to the Historic Places Trust, and I believe we should welcome an involvement in the project, and consider what expertise and assistance we might offer. Restoration of features damaged by logging, excavation of selected features and presentation of written and display materials, development of a system of guided tours as seems appropriate as the project progresses --- these are some of the ways that the Trust might contribute (see doc B22:38).³⁶

This appears to have been close to the ideas put forward by Ned Nathan. The Regional Archaeologist further elaborated upon her ideas by later identifying as priorities: archaeological research, management during logging, and management for permanent preservation (doc B25:127-132 and 133-136).³⁷

5.4 The interim Te Roroa - Waipoua Archaeological Advisory Committee

In 1985 the interim Te Roroa - Waipoua Archaeological Advisory Committee was formed. The establishment of a group such as TRWAAC, set up as an advisory body to ensure consultation between Te Roroa and the Crown regarding wahi tapu management is unique. As Maori Marsden pointed out "... what was happening at Waipoua was seen by many Maori people as a model of how the partnership could work" (doc B22:245).³⁸ Dr Bulmer has referred to the group as a "national model" (doc B22:78).³⁹ The importance of the Committee is clear.

The first meeting of the group was held on 15 October 1985, and included Ned, Alex and Manos Nathan (tangata whenua), Dr Susan Bulmer (New Zealand Historic Places Trust), Viv Gregory and Te Aue Davis (New Zealand Historic Places Trust Maori Committee), Rod Young (Officer-in-Charge, Waipoua Forest), Ian Lawlor and Michael Taylor (New Zealand Forest Service Archaeologists) and Ian Smith of the University of Auckland. Subsequent meetings have included tangata whenua representatives and at least one representative of each of the three parties. The most recent meeting was held on 12 April 1989 at Te Kopae, an area of great importance to the tangata whenua, which had at that stage been recently logged. The minutes of all but the latest meetings are within the Record of Documents (doc B22).

The original aim of the Advisory Committee, according to Ned Nathan, its convenor, was to ensure that tangata whenua had at least an equal say in the administration of archaeological and traditional sites (doc B22:48).⁴⁰ The Committee was to advise the Forest Service, as the land managers, how to administer areas containing historic places; it was also proposed that the Committee be in control of the finance available for site management, but

their role was never formally defined. Later Committee meetings became a forum to discuss all matters of concern to the tangata whenua relevant to the management of the Forest and surrounds as a whole.

Some of the more prominent issues discussed included: the on-going management of sites being logged, the establishment of the interim Te Roroa - Waipoua Archaeological Advisory Committee as a Trust and its standing as a Trust, assessment of the significance of sites at Waipoua, the source of funding for the Waipoua Archaeological Project, the extent of the proposed Waipoua Archaeological Reserve, the process and channelling of permits and authorities for site modification, the form of archaeology at Waipoua: management versus scientific investigation, site restoration and preservation, the formulation of a policy for media coverage, policy regarding public access to sites, the establishment of a long term archaeological project, the governmental reorganisation to take affect 1 April 1987 and the responsibilities of each of the groups members after this date, the Historic Places legislation review, the Kauri National Park proposal, custodianship of artifacts and the Te Roroa Waipoua application to be a collector under the Antiquities Act 1975, closure of the gateway to Kawerua to preserve kaimoana resources there, cultural resource management, Waipoua and the proposed Tutamoe Ecological District Management plan, and Resource Management Law Reform. A number of these issues require further elaboration.

The establishment of the interim Te Roroa - Waipoua Archaeological Advisory Committee as a Trust/The proposed Archaeological Reserve. From the outset, a concern of the Advisory Committee was the group's official standing. Originally it had been suggested that the group form a trust, the 'Te Roroa - Waipoua Archaeological Trust', and a major part of its responsibility in administering traditionally sacred sites was to be, to manage the proposed archaeological reserve (however nothing has yet been done to impliment it). It was not until the TRWAACs third meeting on 20 February 1986 that it was decided the group would change its name and status to be an Advisory Committee, until this interim status could be changed. One of the first proposals was that the Committee should form a Maori Trust under section 439 of the Maori Affairs Act 1953, however there were many queries as to whether this would be the appropriate "vehicle" (doc B22:27).⁴¹ A further suggestion was that the group form an incorporated society. However tangata whenua wished to maintain a majority, and it was thought that this would not be possible within an incorporated society (doc B22:49).⁴² At the third TRWAAC meeting it was suggested that either (a) the land be surveyed and returned to the original owners, or (b) the Crown retain the land and the land be transferred to the Department of Conservation (as the proposed archaeological reserve was to go to the Department of Conservation), or (c) the Crown retain the land and a statutory committee be set up. It was concluded that the land go to Department of Conservation; tangata whenua involvement to be determined later (doc B22:49).⁴³

The issue of the status of the TRWAAC was raised again in 1987. It was requested that the interim Te Roroa Waipoua Archaeological Advisory Committee be formalised under section 56 of the Conservation Act because of its value in building bridges between tangata whenua and other organisations by respecting the wishes of tangata whenua (doc B25:137).⁴⁴ A hand written note from the Regional Manager to the Deputy Regional Manager queried whether this should wait for the 1988 Quango review. It stated: "I agree the Committee is needed, but does it have to be formalised?" (doc B25:137)⁴⁵ The issue remains unresolved, and it is clear from recent minutes that the Committee retains little status.

Permits and authorities. Discussion regarding the issuing of permits and authorities was largely between the Forest Service archaeologists and those of the Historic Places Trust, and emphasised their differing aims and perceptions of what was to be achieved. Forest Service archaeologists were concerned to keep up with the pace of logging and meet the work programme agreed to by the TRWAAC, while Historic Places Trust archaeologists wanted to obtain the greatest possible information from excavations, not only to enlarge on their knowledge of Waipoua, but also of the region as a whole. Again, these issues have not been resolved.

Site management verses scientific archaeological research/restoration and preservation.

The debate as to the relative merits of "management" as opposed to "scientific research" and the regional or national significance of the Waipoua sites is to tangata whenua unimportant and unnecessary. What is of paramount concern to us is the protection and preservation of our wahitapu (doc B19:11, Nathan 1988:11).

One of the main considerations of the TRWAAC was to plan for future archaeological work at Waipoua. The formulation of a management plan which included scientific research was of utmost concern to the Historic Places Trust, as they sought to develop the Regional Archaeologist's initial proposal to carry out a long term project. It had always been the Forest Service's stance that the allocated funds were to be spent on management. The following telex emphasises this fact

Brian Sheppard HPT discussed with me the points raised in yr memo of 11 2 86. I indicated that my general approach was that NZFS wld be responsible for identification and management of the sites, but that long term research wld lie with HPT or other organisation. Certainly made no committment to funding long term research (doc B25:119).⁴⁶

In June 1986 the Historic Places Trust Archaeology Committee requested Drs Smith and Bulmer to prepare an archaeological research programme and budget for work on the Waipoua State Forest sites over the next three years (doc B25:159).⁴⁷ Ian Smith produced 'Waipoua Archaeology: Research Design and Investigation Proposal'. A major matter of concern expressed by tangata whenua at the TRWAAC meeting discussing this proposal was its emphasis on archaeological research, the lack of any benefit to tangata whenua and the absence of any proposals for the long term restoration and maintainence and care of the sites. Manos Nathan's response was

It seems to me that the university will come here and do what they want for three years and then disappear. We will not see them again. Nothing in the proposals talks about walkways or the way we want sites presented. We do not want the old places dug over and left. It is too narrow (the proposal) and we need a lot of discussion, and I am pleased you are taking the line that Ian needs to come back and talk to us (doc B22:162).⁴⁸

The concern that archaeologists do not just "dig and run", but take care to restore the sites as near as possible to their original state, has also been noted in section 5.2 of this chapter.

While further issues discussed by the TRWAAC relating specifically to the later (post restructuring) developments will be addressed in section 5.5 of this chapter, it is important to note in conclusion that the tangata whenua have become increasingly disillusioned with the effectiveness of the TRWAAC in allowing them a voice in management at Waipoua. Apart from the lack of resolution to issues which have been discussed at meetings from the Committee's inception, it has been felt that increasingly decisions are being made "in Wellington" regarding Waipoua, without due consultation with tangata whenua. An example is the recent Historic Places Act review. Despite a number of written requests expressing the tangata whenua's desire to be involved in such a review (doc B25:254),⁴⁹ and a verbal promise from the Minister of Conservation that Tai Tokerau tangata whenua would be involved in the review (doc B25:214),⁵⁰ neither of these commitments were met. Late in 1988 the Historic Places Legislation Review document was released by the Department of Conservation but the TRWAAC was not informed. The fact that this occurred could be related to the failure to agree upon a means of achieving official standing as a body through which all decisions must pass.

A further issue of concern was the registration of sites formerly classified as 'A' sites within State Forests. The register is a publicly available list of sites, and this action, taken without prior consultation with the tangata whenua or the TRWAAC, created much indignation (see doc B25:185-7, 202, 205-211). The failing communication between those on the ground and those far away was recognised by the Director of Recreation, Tourism and Historic Resources (Department of Conservation), who attended the TRWAAC meeting in which this was discussed. He stated

...part of the problem with the HPT is that it has been centralised in Wellington, where most of the staff are. And this obviously creates problems (doc B22:194).⁵¹

The preparation of the 1988-89 budget (see doc B25:199,146-154), proposals to manage Waipoua Forest as part of the Tutamoe Ecological District (see doc B25:263-6,279-307), and more recently to encompass the forest within the Kauri National Park proposal (see doc B25:308-10), have overridden more local concerns. This was recognised by the District Conservator, who stated that Te Roroa felt they had been left out of the recent decision making processes in the funding and structuring of the project. And stated

Tangata whenua viewpoint was that HPT have been remote from and uncommitted to the project without explanation (doc B25:214).⁵²

5.5 Recent Developments

To recapitulate part of section 4.3, following the April 1987 restructuring, land planted in exotic forest apart from the area of the proposed archaeological reserve came under the control of NZ Timberlands Limited, all other land previously held in Crown ownership went to the new Department of Conservation. Some of those formerly employed by the Forest Service, including the Forest Service archaeologists, became employees of the Department of Conservation from its inception. The former Historic Places Trust archaeologists were transferred to the Science and Research Directorate of the Department of Conservation later in the year. The proposed privatisation of New Zealand forests aroused claimant concern about future access to and protection of wahitapu, although the Crown has agreed to postpone any privatisation of Waipoua forests until after the Waitangi Tribunal has reported on this claim.

Prior to the restructuring, the Director-General of the new Department of Conservation, Ken Piddington, attended a meeting of the TRWAAC in which he stated that the first undertaking he would give the meeting and Te Roroa was that the proposals in front of the Advisory Committee would not be lost sight of while Government restructuring was going on. He said that he saw as a priority, obtaining a commitment that under Forestry Corporation management the same arrangements would continue for the part of the Reserve that was in pine. Unfortunately this has not yet been realised, as Forestry Corporation have not met the requirements of authorities issued by the Historic Places Trust.

He also assured the meeting that as far as the land allocated to the Department of Conservation was concerned all the values identified in that area would be maintained and they would treat the areas as if they were an archaeological reserve. The Director-General also stated

I think there I can say in approaching the task of managing an area like this (Waipoua), whoever in DoC is responsible will be told that his or her duties will be to relate to this Committee and to the Tangata Whenua...(doc B22:133)⁵³

In response to the 'Future Directions' report, assumed to be a report of the Committee (doc B22:208),⁵⁴ the Department of Conservation produced a report entitled 'The Management of Archaeological and Maori Cultural Values of the Te Roroa Tangata Whenua on Conservation Lands' (doc B25:191-198), which was presented to the TRWAAC in November 1987. This partnership proposal recognised that the Department of Conservation had a statutory responsibility through the Conservation Act 1987 to give effect to the principles of the Treaty of Waitangi. The report outlined the Department's perceptions of what Te Roroa sought, and what the Department would do to meet these objectives. In essence the department stated it would move to work in conjunction with Te Roroa in the achievement of their perceived goals.

Further ideals were expressed by the District Conservator, Department of Conservation

Concurrently the trust and rapport built up by archaeologists with a commitment to Tangata Whenua accountability has started to generate a flow of traditional information from Maori people which provides an illuminating cross reference on modern 'scientific' archaeology. Because of the local success and commitment of the project Maori people in other parts of Hokianga and Hobson Counties are beginning to discuss their own historic sites with D.O.C. archaeologists (and other officers) leading to the possibility of a wider cultural perspective for the Department in this area. Such results can only be achieved through on going departmental commitment and accountability.⁵⁵

In March 1988 the Minister of Conservation, Helen Clarke, attended a meeting at the Kaikohe District Office with Waipoua tangata whenua, Kaikohe and District staff to discuss the Waipoua Archaeological Project and Waipoua management generally (doc B25:213-8).⁵⁶ The Department of Conservation District Conservator, John Beachman prepared two briefing papers on the Project for the meeting, one a subjective paper 'Problems with the Waipoua Archaeological Project' and the other a time chart 'Development and Progress of the Waipoua Archaeological Project'. He identified the need for the Waipoua Project to continue, for archaeologists to have local accountability and for Maori people to be involved, and was generally very supportive of tangata whenua. Another commentator, Dr Aidan Challis, of the Northern

Regional Office, has been critical of the Department of Conservation. He stated that he was aware of little change in the attitudes or programmes of Department of Conservation archaeologists to give effect to the principles of the Treaty of Waitangi as required by the Conservation Act 1987 (doc B25:220-4).⁵⁷

Te Roroa claim that the Department of Conservation has shown an apparent lack of accountability and control of the archaeological processes, they state there has been a loss of goodwill and feel that attending the TRWAAC meetings is fruitless. It is felt that the current performance of the Department of Conservation in archaeology was in conflict with the partnership proposal. A call has been made to return to the original kaupapa.

We're not happy about the turn of events. That the original Kaupapa of this committee has been ignored. (I for one am not happy with the way things are developing, because they ignore the original foundations of this committee). The things we stipulated from the outset of this committee have not been looked in at. I hear a lot of dissatisfaction which will be minuted. I hear talk of a vote of no confidence - I'd be more inclined to write a letter to the minister and spell out our dissatisfaction which does not need to be from this committee, but would come directly from Tangata whenua (doc B22:236).⁵⁸

Tangata whenua have questioned whether the investigations of archaeological sites were of benefit to themselves

When we first started, it sounded really good to Tangata Whenua; we were all behind you, but now some of these promises are being forgotten - like the sites, they have to be cared for. As I was saying, there is a lot of research going into it but it is going to other people (doc B22:163 see also B22:123-126).⁵⁹

More current feeling amongst Te Roroa is expressed in a report written by Alex Nathan on 'Waipoua Wahitapu' (doc B19, see also doc B25:188-190). The 'Waipoua Wahitapu' report was commissioned by the Department of Conservation, originally to identify "traditional sites" as defined within the Historic Places Act 1980, but more recently it has been used to fulfil the provisions of the Treaty of Waitangi (State Enterprises) Act, 1988. This Act was a response to the successful New Zealand Maori Council challenge to the proposed State Owned Enterprises legislation. Alex Nathan's report had been read, discussed at length and agreed with by Waipoua tangata whenua. The report says

Currently we have a situation where decisions directly affecting our people and wahitapu, are being made in Wellington and other places by individuals who in most cases have no direct or intimate knowledge of the local situation. This is despite an agreement by all parties to work through the Te Roroa Waipoua Archaeological Advisory Committee (TRWAAC). Recent events surrounding the registration of sites in Waipoua have highlighted this problem. The point here is that there has been no accountability to tangata whenua for the decisions and actions taken. Responses received to our expressed concerns have been patronizing, insensitive and irrelevant and have given cause for offence. Our feelings of discontent run deep and we question whether the existing structures and the Historic Places legislation afford any real protection for our wahitapu or whether they merely serve the vested interests of professionals who occupy administrative or scientific positions in glass towers far removed from the real world (doc B19:10, Nathan 1988:10).

A/h

In the Matter of the Treaty of Waitangi Act 1975 (as amended) and of claims to the Waitangi Tribunal

E.D. NATHAN (now deceased) and TURO (LOVEY) TE RORE and others for themselves and on behalf of the descendants of the Chiefs Parore Te Awha and Tiopira Kinaki and for others of their tribe in the matter of the Maunganui Block (registered as PC 71 and now a Wai-38)

And

MANOS NATHAN and ALEX NATHAN and others for themselves and on behalf of Te Roroa subtribe of Ngati Whatua in the matter of Waipoua Forest (registered as PC-30)

And

ROPATA PARORE for himself and on behalf of the hapu of the Waipoua, Kaihi and Dargaville region in the matter of Taharoa lands and lakes (registered as PC-138)

And

EMILY PANIORA for herself, for the Waimamaku Maori Committee and on behalf of the Te Roroa hapu of Waimamaku in the matter of reserves, wahi tapu and taonga (registered as PC-182)

AMENDED STATEMENT OF CLAIMS

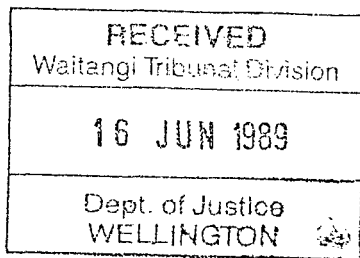
WHEREAS the claimants have filed claims respectively dated 22 April 1987, 10 November 1986, 2 February 1988 and 1 February 1989.

AND WHEREAS the claims concern related issues and the claimants are of the same hapu collectively known as Te Roroa, a hapu of the northern section of Ngati Whatua.

AND WHEREAS the claims may conveniently be combined for inquiry, research and hearings by the Waitangi Tribunal

AND WHEREAS the claimants desire to amend and give further particulars in substitution for the Statement of Claim dated 15 December 1988.

NOW THEREFORE we the claimants collectively say that we are Maori and that we and our Te Roroa Ngati Whatua hapu have been and are prejudicially



affected by various Ordinances, Acts, Regulations, Orders, Proclamations, Notices and other statutory instruments, by various policies and practices adopted by or on behalf of the Crown and by various acts done or omitted by or on behalf of the Crown which were or are inconsistent with the terms and the principles of the Treaty of Waitangi.

AND, without prejudice to the generality of our claim and reserving the right to seek leave to amend this statement of claim or to provide further particulars in the light of further evidence revealed by ongoing research and inquiries we particularize our grievances against the Crown as follows:

A. Maunganui Block and related issues

1. The acts and omissions of the Native Land Purchase Offices and their agents in promoting and orchestrating the purchase of Maunganui Block in 1876 leading to subsequent loss of the Waipoua Block and other surrounding blocks of the Te Roroa Ngati Whatua land;
2. The failure to recognise the setting aside of the Manuwhetai and Whangaiariki Reserves within the Maunganui Block;
3. The reliance upon the enforcement of provisions of the Native Lands Act and other statutes relating to Maori land which were contrary to the guarantees of Article II of the Treaty;
4. The failure to accept the findings of the Stout-Ngata Commission in 1908 in respect of the Manuwhetai reserve;
5. The failure to accept the conclusions of Judge F.O.V. Acheson consequent upon Land Court hearings in 1939 upon the petitions of L.W. Parore and J. Parore.
6. The failure to prevent the sub-division and sale of land within the disputed reserves of Maunganui even whilst Judge Acheson's Report was awaiting consideration and at a time when many of the men of our hapu were fighting in the service of the Crown in distant theatres of war;

7. The failure to adequately protect the wahi tapu on and about the sacred hill and bluff of Maunganui and the sites of ancient whare wananga at that place.
8. The diversion of the Waihopai river so that a fresh water supply was no longer available adjacent to the Manuwhetai reserve;
9. The continuing failure to maintain Manuwhetai as a reserve, to protect the urupa within the reserve and to prevent subdivision of the land (or subdivision preparations) in a manner which desecrated urupa sites and other wahi tapu.
10. The failure to adequately enforce the provisions of the Historic Places Act 1980 to protect archeological and traditional sites within Manuwhetai, Whangaiariki and adjacent areas (including also Puketapu and other papakainga sites) and to prevent removal of taonga from swamp areas;
11. Within the adjacent Opanake Block, the failure of adhere to agreements relating to the supply of water to members of our hapu and the use of the Public Works Act to extinguish rights over catchment roads; and the failure to return to the original Maori owners the former railway line land when that land was no longer being used for the purposes for which it was obtained.
12. Generally, the Acts, policies, practices and omissions of the Crown and its agents in effecting the loss of Te Roroa lands in the Maunganui area, and its failure to ensure that sufficient lands remain for the needs of the Te Roroa hapu in Maunganui.

B. Waipoua forest and related issues

13. The reliance upon and enforcement of provisions of the Native Land Acts and other statutes relating to Maori land which were contrary to the guarantees of Article II of the Treaty;

14. The Crown's continued purchases of land, in breach of Treaty guarantees and of good faith, in Waipoua No 2 since 1906 which have failed to ensure sufficient land remains for the needs of Te Roroa hapu at Waipoua;
15. The continuing failure of the Crown to recognise and respect the rights of Te Roroa to many ancient wahi tapu including urupa and other taonga in the Waipoua area, including the Waipoua forests.
16. The failure of the Crown to adequately enforce the provisions of the Historic Places Act 1980 so as to protect archeological and traditional sites within Waipoua.
17. The failure of the Crown to protect Taonga recovered at Waipoua in terms of the Antiquities Act 1975 and as agreed between the Crown and Te Roroa.
18. The proposal of the Crown to establish within 12 months a National Park encompassing (inter alia) the whole of the Waipoua No.1 block in a manner which will pre-empt the present enquiry.
19. The failure of the Crown to negotiate a just and fair price for the sale of Waipoua No.1 and Maunganui blocks in 1876 and in particular the failure to include within that price the value of growing timber on the blocks.
20. The failure of the Crown in 1876 to recognise and equality of interest in both in Waipoua No.1 and Maunganui blocks between the Chiefs Tiopira Kinaki and Parore Te Awha by failing to pay the former an amount equivalent to that paid to the latter.
21. Crown actions and omissions in respect of the Te Roroa reserve known as Koutu at Kawerau and in particular:
 - (a) The failure of the Crown to ensure that title to the full reserve area of 30 acres was preserved to the Te Roroa hapu; and

- (b) The loss of Te Roroa ownership and/or control of the reserve to agencies of the Crown.
22. The failure of the Crown and/or its agents, in the purchase of the Waipoua No.2 block to pay a just and fair price for the timber growing thereon.
 23. The failure to implement the findings of the Stout-Ngata Commission in 1908 in respect of Waipoua.
 24. The failure of the Crown and its agents to provide Te Roroa hapu of Waipoua with adequate public services and utilities particularly communications, education and health;
 25. The failure of the Crown or its agents to provide legal access to the Waipoua settlement and to our sacred places and ancestral lands within the Waipoua block;
 26. The proposed sale of the Waipoua forest land and/or rights in the land to State Enterprises or to private interest which is likely to prejudice the claimants rights to redress and to provide protection to their wahi tapu;
 27. The policy or proposed policy or act of the Crown to sell an interest in Waipoua land without conditions to protect the land from exploitation by commercial interests which protection the claimants need to protect their wahi tapu and ancestral sites;
 28. The proposal to exclude Maori from use for up to 50 years of the Waipoua forest land should it be recommended for return to the claimants by the Waitangi Tribunal, such proposed policy of exclusion being a prolonged and unreasonable alienation from their tribal ancestral land and denial of access to it;
 29. The failure of the Crown generally and the New Zealand forest service, the Department of Lands and Survey, Department of

Conservation and the Forestry Corporation in particular to promote policies respecting the rights of Te Roroa with the Waipoua area.

30. Generally, the Acts, policies, practices and omissions of the Crown and its agents in effecting the loss of Te Roroa lands in the Waipoua area, and its failure to ensure that sufficient lands remain for the needs of the Te Roroa hapu in Waipoua.

C. Taharoa Block and related issues

31. The manner of purchase of the portion of the Taharoa block set aside for Parore Te Awha.
32. The action of the Crown in buying the above block and converting it to a public reserve without giving proper regard to the special interest of the tangata whenua in the block and wahi tapu therein; failure to protect Maori interests in their ancestral kainga or sites of occupation in the Taharoa area and failure to provide adequate protection of wahi tapu.
33. The failure to protect Maori interests in fishing resources in lakes and waterways in the Taharoa area;
34. The failure to require that the local authority, namely the Hobson County Council, ensure that the descendants of the original Maori owners of the Taharoa block were appropriately consulted in the management of Taharoa Domain;
35. The failure to maintain Maori fishing and eeling rights in Waikere and other adjacent lakes and access thereto;
36. The introduction of exotic fish species and the enforcement of conservation measures relating to those species resulting in interference with Maori fishing rights in the lakes and waterways of the area.

37. Generally, the Acts, policies, practices and omissions of the Crown and its agents in effecting the loss of Te Roroa lands in the Taharoa area, and its failure to ensure that sufficient lands remain for the needs of the Te Roroa hapu in Taharoa.

D. Waimamaku area and related issues

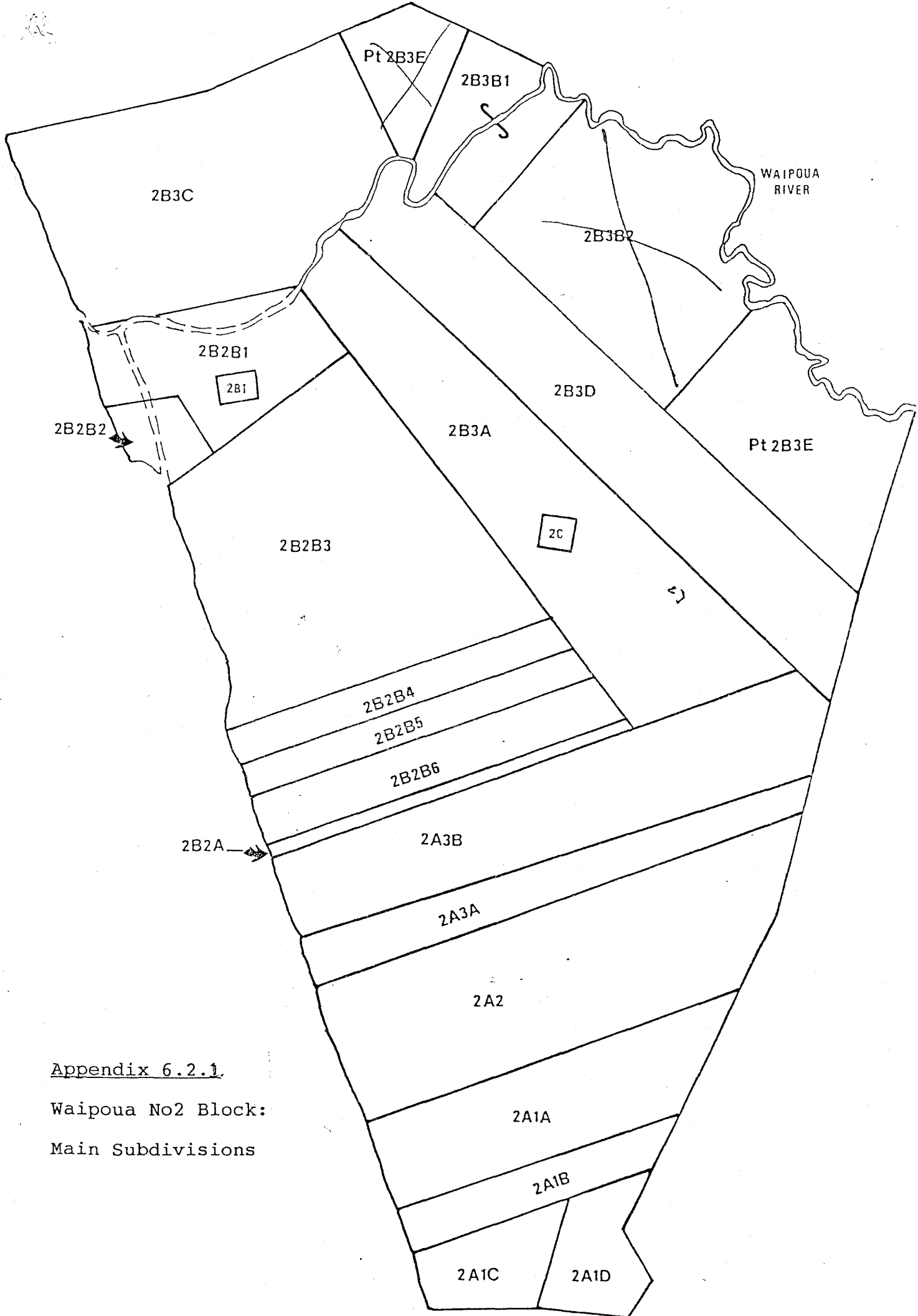
38. The failure to adequately protect urupa and other wahi tapu in the area in particular the places known as Piwakawaka, Kohekohe (Muru), Kukutaiapa, Paraheka, Te Moho, Wairau, Te Minihi.
39. The removal and the failure to return taonga taken from Wahi tapu and held in various collections, in particular the Spencer Collection;
40. Generally, the Act, policies, practices and omissions of the Crown and its agents in effecting the loss of Te Roroa lands in the Maungamui area, and its failure to ensure that sufficient lands remain for the needs of the Te Roroa hapu of Waimamaku particulars of which will be provided in due course.

AND, for the avoidance of doubt, we formally claim the full extent of the rights to fisheries guaranteed by the Treaty of Waitangi in relation to lakes, inland waterways, the shoreline, the inshore fisheries and other offshore fisheries within or adjacent to the Te Roroa Ngati Whatua ancestral lands.

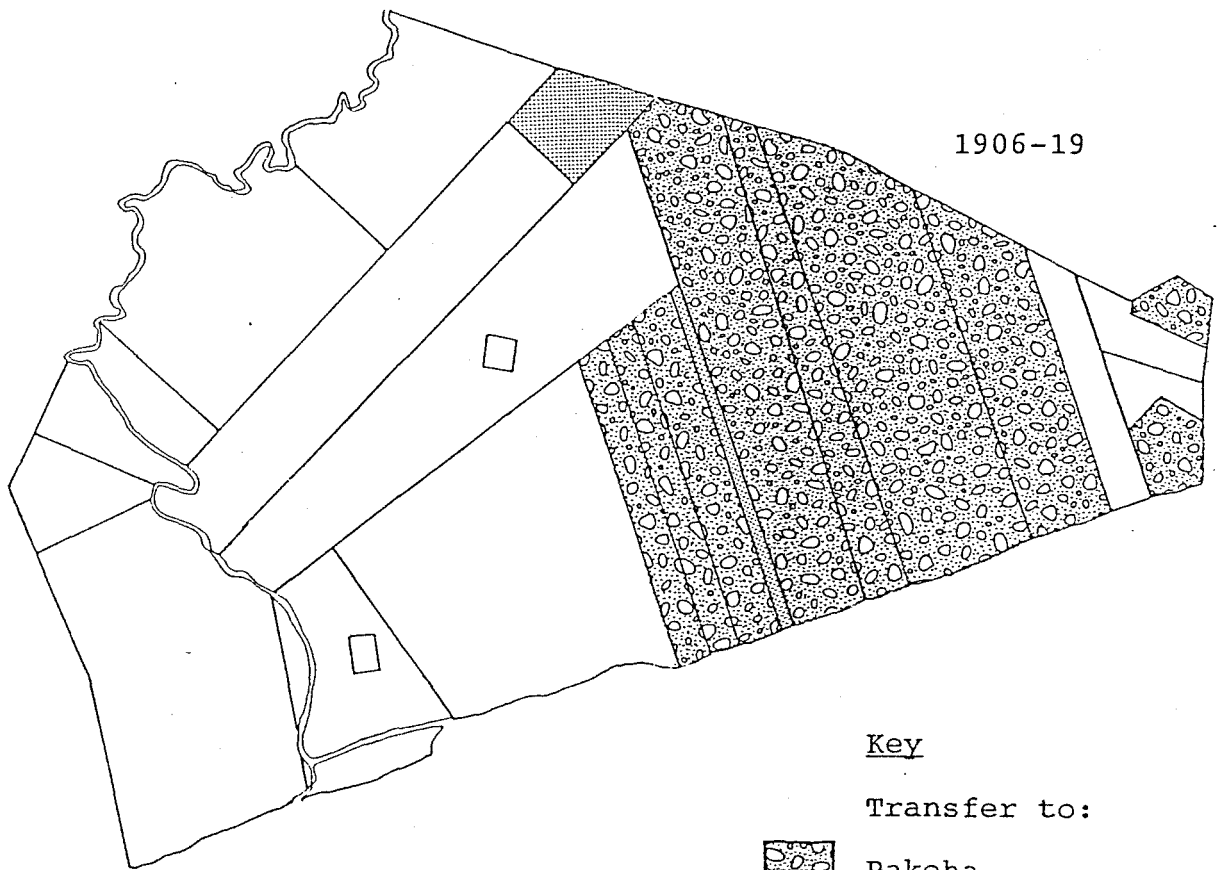
AND, for the further avoidance of doubt we formally claim the full extent of rights to surface and sub-surface minerals guaranteed by the Treaty of Waitangi in respect of all of the Te Roroa Ngati Whatua ancestral lands.

NOW THEREFORE we ask the Waitangi Tribunal to assist and to continue to assist us with the necessary research into historical and legal issues raised by these claims so that these issues may be presented in an orderly fashion at hearings before the Tribunal.

AND we ask that the Tribunal appoint Mr J.V. Williams of Kensington Swan, Barristers and Solicitors, as counsel to advise and assist us.



Appendix 6.2.1
 Waipoua No2 Block:
 Main Subdivisions



1906-19

Key

Transfer to:



Pakeha



Crown



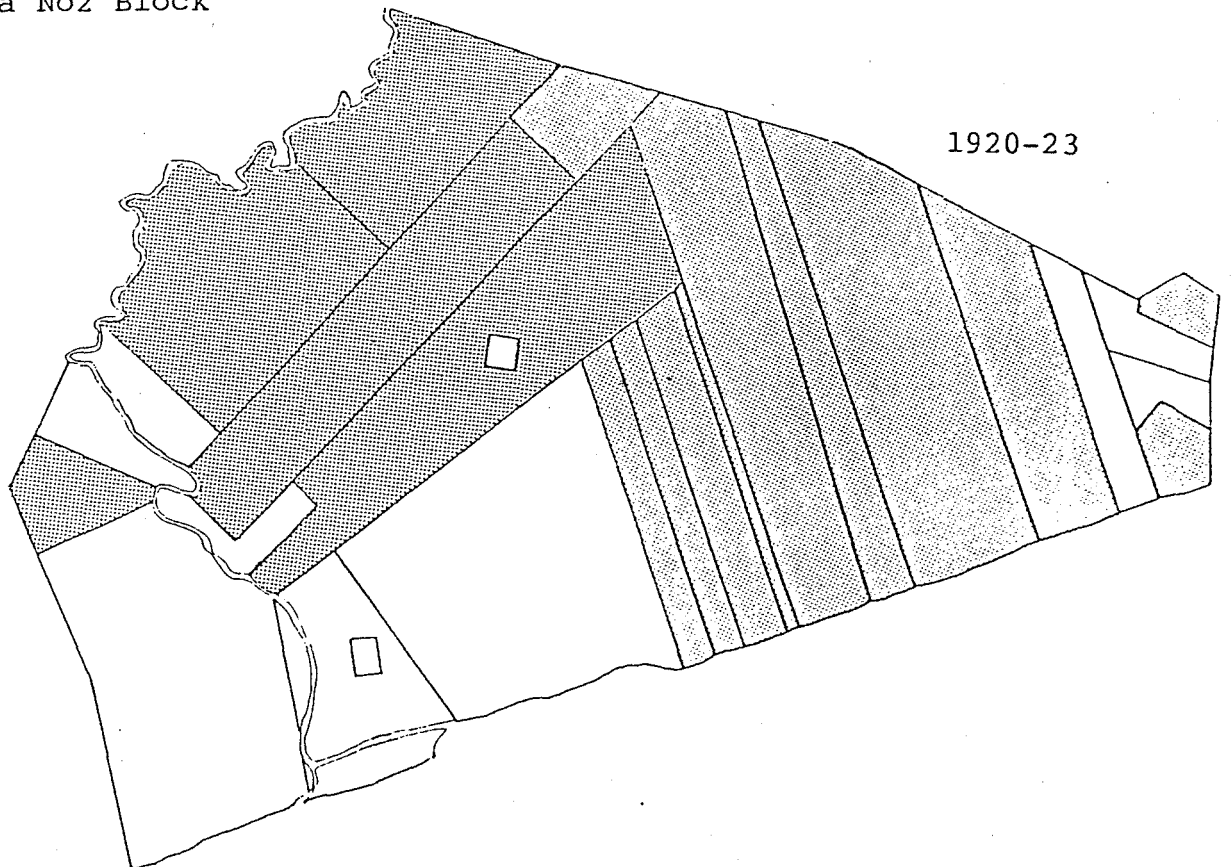
Maori land



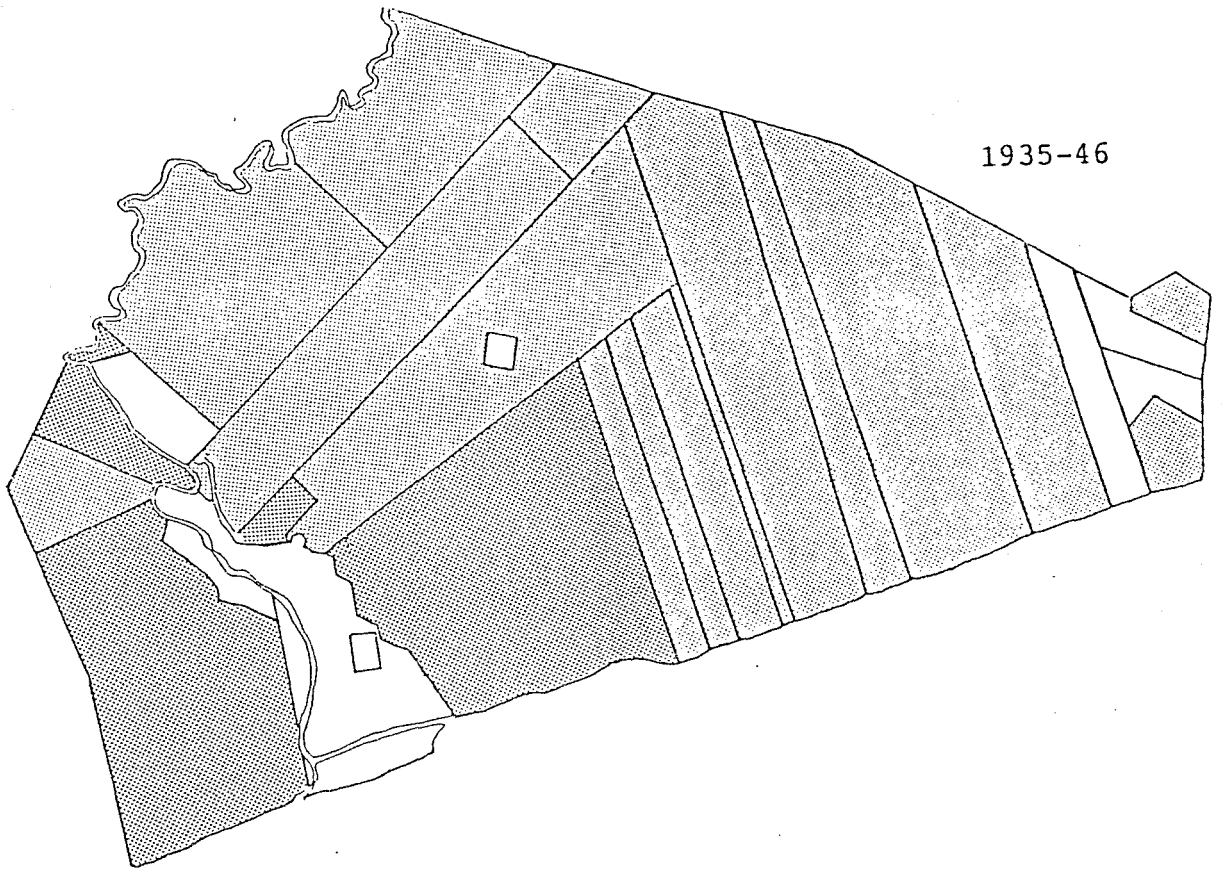
Alienated land

Appendix 6.2.7.

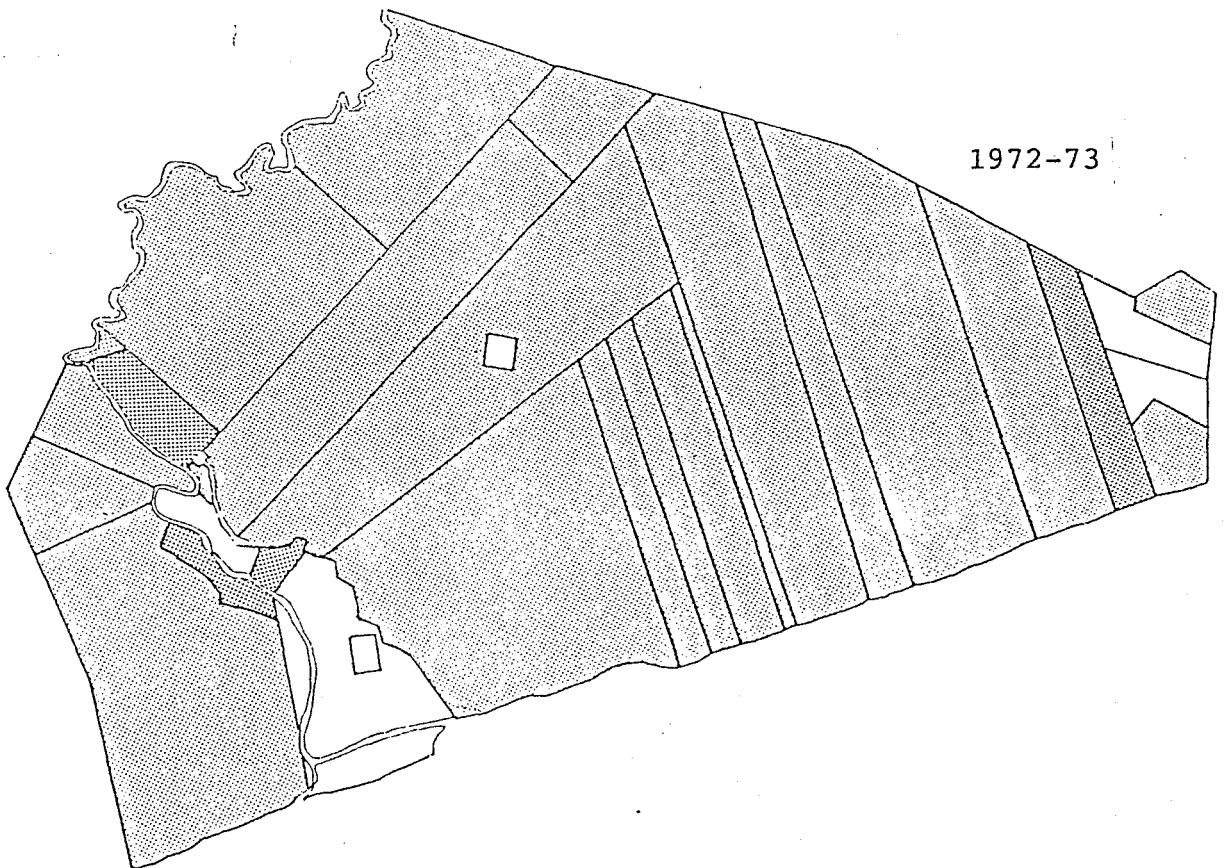
Alienation of
Maori land in
Waipoua No2 Block



1920-23



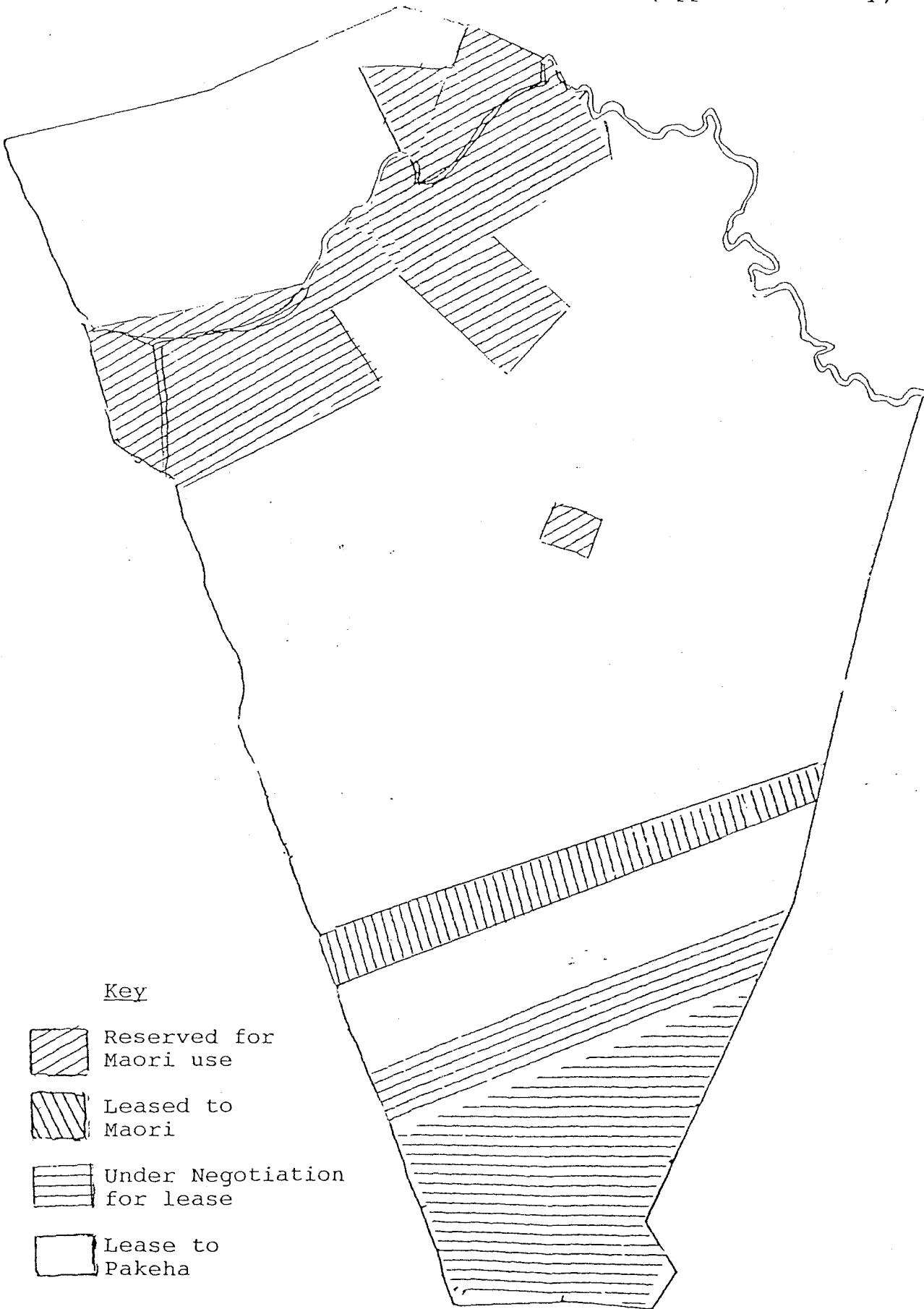
1935-46



1972-73

Appendix 6.2.3

Map showing recommendations
of the Stout-Ngata
Commission re.
Waipoua No 2
(Approximate only)



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FOOTNOTES

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3. 'Census of the Maori Population, 1878',
AJHR 1878 G2 p 12
4. Inspector's Report, 24 October 1881, Department of Education Waimamaku
School Building and Sites File, BAAA 1001/685a, NAA
5. Survey plan 12836, DOSLI Auckland
6. Stout-Ngata Commission North Auckland minuttebook, MA 78/5, NA
7. Memorial of Ownership, Waipoua No. 2, 3 February 1876, Kaipara bundle,
DOSLI.
8. Stout-Ngata Commission North Auckland Minutebook, MA 78/5, p. 174, NA
9. Ibid
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Waipoua Land Court hearings, July 1886, Northern MB8 p 234, 263, MLC.
11. Crown Lands Ranger to Commissioner of Crown Lands, 25 August 1893, Lands
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12. Taoho Rewiri Tiopira to Native Minister, 1 November 1911, Native
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13. President Tai Tokerau Maori Land Board to Under Secretary Native
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14. "Report by Inspector of Surveys on Position and Quality of Lands North of
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15. NZG 1906 p1427
16. Chief Timber Expert to Commissioner of Lands, 29 December 1909, Department
of Lands and Survey File 10594, BAAZ 1108 A25/10594 vol 1, NAA.
17. Surveyor General to Chief Surveyor, 1916, State Forest Service File
6/1/120 vol 2, F1 6/1/120, NA.
18. Stout Ngata Commission North Auckland Minutebook, MA 78/5, p175, NA
19. NZG 1908 p1681

20. Maori Land Board Alienation file T2774, MA-WR A39, NAA
21. Judge Holland to Parr and Blomfield, 19 August 1918, Land Board Alienation File T 2411, MA-WR A39, NAA
22. Waipoua Title Register, MLC: and see appropriate Maori Land Board Alienation files held at National Archives, Auckland.
23. Forestry Inspector to Secretary of Forests, 3 February 1920, New Zealand Forest Service file 6/1/13 vol 3, F1 6/1/13, NA
24. NZG 1917 p2703

Chapter Three

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2. "State Forest Service. Annual Report", AJHR 1927 C 3 p3 33
3. "State Forest Service. Annual Report", AJHR 1930 C3 pp13-14
4. "State Forest Service. Annual Report", AJHR 1931 C3 p8
5. Consolidation Officer to Undersecretary Native Department, 28 August 1931, Maori Affairs file 1911/150, MA-MLP 1, NA
6. Evidence of mary Milich [nee Yakas], 6-7 July 1939, transcript, ibid
7. Officer-in-Charge Waipoua to Conservator, 19 February 1936, Auckland Forest Service file 8/1/38, BBAX 1124/85a, NAA
8. Consolidation Officer to Undersecretary Native Affairs, 28 August 1931, 1911/150 op cit
9. Ibid
10. Silviculturist to Director of Forestry, 25 May 1931, Auckland Forest Service file 6/1/13, BBAX 1124/42a, NAA
11. Consolidation Officer to Undersecretary Native Affairs, 28 August 1931, 1911/150 op cit
12. Ned Nathan, TRWAAC minutes3, 20 February 1986
13. Commissioner of Crown Lands to Undersecretary Lands, 28 October 1916, Forest Service file 6/1/120, F1, NA
14. Undersecretary Native Department to Undersecretary Lands, 15 September 1917, 1911/150, op cit

15. Secretary State Forest Service to Forest Inspector, 22 December 1919, Forest Service file 6/1/13, F1, NA
16. Secretary State Forest Service to Conservator, 8 August 1922, *ibid*
17. Conservator to Secretary State Forest Service, 16 June 1923, *ibid*
18. For details of Maxwell's work see Lands and Survey file 10594, NAA
19. Native Land Purchase Officer to Undersecretary Native Department, 25 May 1923, 1911/150, *op cit*
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21. Commissioner of Lands to Undersecretary Lands, 24 August 1917, Auckland Lands and Survey file, BAAZ 1109/1685b, NAA
22. Director of Forestry to Commissioner of State Forests, 1 December 1931, Forest Service file 6/1/13, *op cit*
23. NZG 1918 p2914
24. NZG 1920 p2934
25. NZG 1924 p178
26. NZG 1922 p106
27. Chief Surveyor to Undersecretary Lands, April 1917, 1911/150 *op cit*
28. Chief Surveyor to Undersecretary Lands, 31 May 1917, 20/160, *op cit*
29. NZG 1917 p2703
30. NZG 1918 p2430, 4023
31. NZG 1932 p1772
32. Native Land Purchase Officer to Native Undersecretary, 31 July 1919, 1911/150, *op cit*
33. Native Land Purchase Officer to Native Minister, 26 August 1920, *ibid*
34. Undersecretary Native Affairs Native Land Purchase Officer, 14 August 1928, *ibid*

35. Chief Surveyor to Undersecretary Lands, 19 December 1918, 20/160 op cit; Native Land Purchase Officer to Undersecretary Native Department, 27 June 1921, 1911/150 op cit
36. Native Land Purchase Officer to Undersecretary Native Department, 5 August 1918, 1911/150 op cit
37. Undersecretary Native Department to Registrar, 26 June 1917, 1911/150 op cit
38. Waipoua Experimental Station Monthly Report, December 1930, Auckland Forest Service file 30/1/2A, BBAX 1124/177b, NAA
39. Silviculturist to Director of Forestry, 25 May 1931, Auckland Forest Service file 6/1/13, BBAX 1124/42a, NAA
40. Officer-in-Charge Waipoua to Conservator, 21 March 1936, 30/1/2B, op cit
41. Silviculturist to Director, 21 May 1932, Hansson's files, DOC Waipoua
42. Evidence of W Cooper, 6-7 July 1939, transcript pB15, 1911/150, op cit
43. Officer-in-Charge to Conservator, 19 February 1936, Auckland Forest Service file 8/1/38, BBAX 1124/85a, NAA
44. Consolidation Officer to Registrar, 23, 30 March 1931; to Undersecretary Native Department, 28 August 1931; to Registrar 19 February 1935, 1911/150, op cit
45. Officer-in-Charge to Conservator, 25 February 1935, 8/1/38, op cit
46. Director Forestry to Undersecretary Native Department, 7 November 1935, 1911/150 op cit
47. Registrar to Undersecretary Native Department, 7 December 1935, ibid
48. Kaipara MB 20, 4 April 1936, pp228-30, MLC
49. Copy of petition 33/1937, 24 September 1937, 1911/150, op cit
50. Kaipara MB 22, 6-7 July 1939 pp70-92; Transcript 1911/150, op cit
51. Crown Solicitor to Commissioner of Crown Lands, 28 July 1939, 20/160 vol 2, BBAX 1124/1440b, NAA
52. AJHR 1941 G6A pp1-6
53. Kaipara MB 23 January 1943 pp303-342

54. Commissioner Native Affairs to Undersecretary Native Affairs, 12 march 1943, 1911/150, op cit
 55. Chief Surveyor to Undersecretary Lands, 19 April 1943, 1911/150 op cit
- 55ANZG 1931 p1550-1
56. Report of Commissioner Native Affairs, 8 February 1943, 1911/150, op cit
 57. Consolidation Officer to Undersecretary Native Affairs, 28 August 1931, ibid
 58. Ibid
 59. Consolidation Officer to Registrar, 19 February 1935, ibid

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1. M Milich to Secretary Auckland Education Board, 26 August 1946, Department of Education Waimamaku School Building and Sites File, BAAA 1001/712 b, NAA
2. Memorandum for Director of Education, 2 July 1940, Department of Education Waimamaku School Building and Sites File, BAAA 1001/712 b, NAA
3. NB Stevens to Prime Minister, 3 October 1946, Department of Maori Affairs File 22/1/179, WMA 22/1/179, NA. However a Public Works report the following year said that there was no farming other than some domestic animals, District Engineer Whangarei to District Engineer Auckland, 3 February 1947, 22/1/179, MA1, NA.
4. J A Laughton to District Superintendent, 3 April 1958, Department of Education Waimamaku School Building and Sites File, BAAA 1001/712B, NAA.
5. Registrar, Tokerau District Maori Land Court, to Commissioner of Crown Lands, 21 November 1958, Registrar, Tokerau District Maori Land Court to Chief Surveyor, 29 August 1949, Lands and Survey File 20/160 vol 2, BAAZ 1009/1446, NA; Succession schedules, Maori Land Court, Waipoua Block Order File No. 4.
6. NZG 1961 p1480
7. John Te Rore to Forest Service, 2 March 1964, Kaikohe Forest Service File 9/1/34, DOC Kaikohe.
8. Secretary of Forests to Director General of Lands, 1 April 1965; D Ross to Chief Surveyor, 25 November 1965, Lands and Survey File 15/286, DOC Auckland; NZG 1966 p1333.

9. Commissioner of Crown Lands to Conservator of Forests, 22 January 1971, Conservator of forests to Commissioner of Crown Lands, 5 April 1971, Lands and Survey File 20/160 vol 4, DOSLI Auckland
10. Memorandum, 19 August 1977, Kaikohe Forest Service File 6/13, DOC Kaikohe
11. Chief Surveyor to District Officer, 14 August 1967, Commissioner of Crown Lands to Director-General of Lands, 4 May 1973, Lands and Survey File 20/160 vol 3, DOSLI Auckland
12. Superintendent of Land Development to Commissioner of Crown Lands, 13 July 1971; Director-General of Lands and Commissioner of Crown Lands, 13 April 1973; Superintendent of Land Development to Commissioner of Crown Lands, 10 July 1973; Mekene Tane Hohaia to Minister of Lands, 30 August 1973, Minister of Lands to Director of Lands to Director-General of lands. 18 December 1973, Lands and Survey File 20/160 vol3, ibid
13. Petition of H Taman and 42 others to Tau Henare MP, 9 August 1923, Public Works File 33/905, NA.
14. Conservator of forests to Director of State Forest Service, 22 December 1923, Engineer-in-Chief to Undersecretary of Public Works, 11 June 1924, Conservator of Forests to Director State Forest Service, 29 October 1924, H Te wake to Prime Minister, 21 June 1926, Public Works File 33/905, NA
15. Consolidation Officer to Native Undersecretary, 28 August 1931, Maori Affairs File 1911/150, MA-MLP 1911/150 vol1, NA
16. N Nathan to Minister of Lands and Forests, 24 January 1985, Waipoua State Forest Service File 36/1/13/2, DOC, Waipoua Forest Monthly Report, November 1933, State Forest Service file 30/1/2A, 1929-34 BBAX 1124/177b, NA
17. Transcript of evidence, 6 July 1939, p69B, Report of Proceedings or Inquiry into Petition No. 33/1937, MA-MLP 1911/150 vol2, NA
18. Forest Ranger to Conservator, 12 December 1946, State Forest Service File 6/1/13, F1 6/1/13 vol9, NA
19. Minister of State-Owned Enterprises to A Nathan, 9 March 1989, copy supplied by A Nathan.

Chapter Five

1. Note: Both the 1954 Historic Places Act, of which the 1975 Act is an amendment, and the 1980 Act require one Maori person to be on the trust (or Board of Trustees in the 1980 case). However this is one of eleven.
2. "Options for Protecting Wahi Tapu Sites", discussion paper for Cabinet Policy Committee, Officials Group on the Settlement of Land Claims, November 1988. Copy supplied by Alex Nathan.
3. Ned Nathan, TRWAAC Minutes 1, 15 October 1985.
4. It is unclear whether the person referred to here is the same Enoka Te Rore of sections 3.3 and 3.4 of this report, and it has been suggested that the person writing this letter was in fact Enoka Te Rore's nephew.
5. Tahoara Enoka Te Rore Taoho to Acting Native Minister, 16 April 1939, Department of Maori Affairs Land Purchase Section file 1911/150, MA-MLP 1, NA
6. Forest Ranger to Conservator of Forests, 16 April 1939, Auckland Forest Service file 8/1/38, BBAX 1124/85a, NAA
7. Ibid.
8. Conservator of Forests to Director of Forestry, 14 April 1939, State Forest Service file 8/1/38, *ibid.*
9. Te Atarangi Paniora to Registrar Maori Land Court, 26 February 1947, Waipoua Block Order file 4, 214HK, MLC
10. Registrar Maori Land Court to te Atarangi Paniora, 9 April 1947, *ibid.*
11. Te Atarangi Paniora to Registrar Maori Land Court, 17 July 1949, *ibid.*
12. Registrar Maori Land Court to Te Atarangi Paniora, 1 August 1949, *ibid.*
13. Waipoua Forest Journal, Vol 2, 25 August 1949, DOC Waipoua.
14. Waipoua Forest Journal 1951-1955, 26 May 1951, p23, DOC Waipoua.
15. *Ibid.*, September 1952, p.138.
16. Ned Nathan to Minister of Forests, 24 January 1986, Waipoua Forest Service file 36/1/13, DOC.
17. Ned Nathan, TRWAAC Minutes 3, 20 February 1986.

18. Ned Nathan, TRWAAC Minutes 4, 11 June 1986.
19. Minister of Forests to Ned Nathan, 21 March 1985, Waipoua Forest Service file 36/1/13/2, DOC.
20. Alex Nathan, TRWAAC Minutes 9, 15 September 1987.
21. John Coster to Senior Forester, 15 January 1980 and related correspondence, Kaikohe Forest Service file 6/13/21/1.
22. Conservator of Forests to Forest Service Kaikohe, January 1979, Waipoua Forest Service file 6/13/21, DOC Waipoua.
23. The classification system and the procedure taken once a site is classified is more fully explained within the Resource Book compiled by Ian Lawlor (doc B18): 'Identification and Management of Archaeological Sites in the Auckland Conservancy, J Pierce 1982, pp1-22.
24. Senior Archaeologist to Conservator of Forests, 23 February 1984, Forest Service file 6/1/21/1, DOC Auckland.
25. Minutes of the Historic Places Trust Sites Committee, 18-19 May 1985.
26. Assistant Conservator of Forests to Historic Places Trust, 14 June 1985, Forest Service file 6/13/21/1, DOC Kaikohe.
27. Acting Senior Archaeologist to Auckland Conservancy Archaeologist (Forest Service), 6 June 1985, Forest Service file 6/13/21/1, DOC Auckland
28. Chairman of the Historic Places Trust Archaeology Committee to Assistant Conservator, 30 June 1985, *ibid*.
29. Conservator of Forests to NZHPT, 12 July 1985, *ibid*.
30. Minutes of the Historic Places Trust Archaeology Committee, 26 February 1986.
31. TRWAAC, Minutes 4, Annexure 4; Minutes of the Historic Places Trust Archaeology Committee, 4-5 June 1986. Around this time Dr Smith was appointed to the Historic Places Trust Archaeology Committee, and became increasingly involved with research proposals on behalf of the Historic Places Trust.
32. Ian Lawlor, Report to the Historic Places Trust Archaeology Committee Concerning the Survey, Management and Investigation of Historic Places in the Waipoua River Valley, 3 February 1986, Kaikohe Forest Service 6/13/21/1, DOC Kaikohe

33. Advisory Officer (Historic Places Trust) to Conservator of Forests, 28 July 1986, AFS 6/13/21/1; and Chairman of the Historic Places Trust Archaeology Committee to Assistant Conservator of the New Zealand Forest Service, 30 June 1985, *ibid.*
34. This was requested by the Chairman of the Archaeology Committee in his letter of 3 February 1986.
35. See footnote 24.
36. Commentary by Dr Sue Bulmer on Waipoua Archaeological Project, TRWAAC Minutes 2, Annexure 4.
37. "The Waipoua Archaeological Project", Dr Sue Bulmer, 18 Aug 1987, DOC Auckland.
38. Rev Maori Marsden, TRWAAC Minutes 11, 2 March 1988.
39. Regional Archaeologist, TRWAAC Minutes 4, 11 June 1986.
40. Ned Nathan, TRWAAC Minutes 3, 20 February 1986.
41. Cecil Hood, TRWAAC Minutes 2, 11 December 1985.
42. Cecil Hood, TRWAAC Minutes 3, 20 February 1986.
43. *Ibid.*.
44. District Conservator to the Auckland Regional Manager, 20 July 1987, Lands and Survey file 15/286, DOC Auckland
45. *Ibid.*
46. Assistant Conservator (Forest Service) to Conservancy Archaeologist, 17 February 1986, 6/13/21/1, DOC Auckland
47. Minutes of the Historic Places Trust Archaeology Committee, 4-5 June 1986, HPT.
48. Manos Nathan, TRWAAC Minutes 7, 18 March 1987.
49. Secretary Te Roroa Trust to Director of the Historic Places Trust, 14 February 1989; Director to Secretary, DOC file RM021/01, DOC Kaikohe.
52. District Conservator to Regional Manager, Waipoua file 1/7, DOC Kaikohe.
53. Director-General of the Department of Conservation, TRWAAC Minutes 5, 5 November 1986.
54. Deputy Regional Manager, TRWAAC 9, 15 Sept 1987.

55. District Conservator, 'Waipoua Management Directions', 12 December 1987, Department of Conservation file 6/13/27, DOC Kaikohe.
56. District Conservator to Minister of Conservation, Kaikohe DOC 6/0/21/A; Waipoua DOC 1/7, DOC Kaikohe.
57. Northern Regional Property Officer to District Conservator, 20 March 1988, Waipoua file 1/7, DOC Kaikohe.
58. Manos Nathan, TRWAAC Minutes 10, 18 February 1988.
59. Rose Paniora, TRWAAC Minutes 7, 18 March 1987.