

TE UREWERA

TE UREWERA

VOLUME V

WAI 894

WAITANGI TRIBUNAL REPORT 2017



National Library of New Zealand Cataloguing-in-Publication Data
*A catalogue record for this book is available from the National
Library of New Zealand*

ISBN 978-1-86956-325-7 (pbk)

ISBN 978-1-86956-326-4 (PDF)

www.waitangitribunal.govt.nz

Typeset by the Waitangi Tribunal

This report was previously released online in pre-publication format in six parts
between 2009 and 2015 as *Te Urewera – Pre-publication Version*

This edition published 2017 by Legislation Direct, Lower Hutt, New Zealand

Printed by Printlink, Lower Hutt, New Zealand

Reprinted with corrections 2018

21 20 19 18 5 4 3 2

Set in Adobe Minion Pro and Cronos Pro Opticals

SHORT CONTENTS

VOLUME I

Report notes	xxxii
Letters of transmittal	xxxiii
Establishing the inquiry district	lxxix
CHAPTER 1: TE UREWERA – THE LAND, THE PEOPLE, THE CLAIMS	1
1.1 Whakataki – introduction	1
1.2 Nga tono – the claims	1
1.3 Te whenua – the land	5
1.4 Nga iwi – the people	7
1.5 Iwi whanui – communities	9
1.6 Nga take – overview of issues presented by the claimants	15
CHAPTER 2: TE AO O TE UREWERA – ORIGINS AND TRADITIONS	17
2.1 Whakataki – introduction	17
2.2 Nga iwi o te Urewera – the peoples	21
2.3 Mana: the exercise of authority – the protection of people, land, and resources	80
2.4 Whakamutunga – conclusion	131
CHAPTER 3: TE TONO TURE TIKANGA A TUHOE – THE TREATY AND THE TUHOE CONSTITUTIONAL CLAIM, 1840–65	133
3.1 Introduction	133
3.2 The ‘constitutional claim’ issues, 1840–65	134
3.3 Key facts	135
3.4 The essence of the difference between the parties	137
3.5 Tribunal analysis	140
<i>Summary answer</i>	140
3.6 Summary	164
CHAPTER 4: TE RAUPATU O TUHOE WHENUA – CONFISCATION	167
4.1 Introduction	167
4.2 Issues for Tribunal determination	169

CHAPTER 4—continued

4.3	Key facts	169
4.4	The essence of the difference between the parties	179
4.5	Tribunal analysis	182
4.6	Mokomoko whanau claim	269
4.7	Summary	276

CHAPTER 5: TE MURA O TE AHI – WAR, TE UREWERA, AND TE KOOTI 279

5.1	Introduction	279
5.2	Issues for Tribunal determination	282
5.3	Key facts	282
5.4	The essence of the difference between the parties	286
5.5	Tribunal analysis	292
5.6	Summary	498

VOLUME II

**CHAPTER 6: NGA PAKANGA O WAIROA ME WAIKAREMOAONA –
WAR IN UPPER WAIROA AND WAIKAREMOANA, 1865–66** 505

6.1	Introduction	505
6.2	Issues for Tribunal determination	507
6.3	Key facts	507
6.4	The essence of the difference between the parties	511
6.5	Tribunal analysis	514

**CHAPTER 7: NGA WHENUA NGARO – THE LOSS OF THE FOUR
SOUTHERN BLOCKS** 571

7.1	Introduction	571
7.2	Issues for Tribunal determination	574
7.3	Key facts	575
7.4	The essence of the difference between the parties	579
7.5	Tribunal analysis	584
7.6	Explanatory note: Te Hatepe Deed, ECLTIA, and Four Southern Blocks maps	751

**CHAPTER 8: TE WHITU TEKAU – THE 1871 COMPACT AND MAORI
AUTONOMY IN TE UREWERA, 1871–93** 763

8.1	Introduction	763
8.2	Issues for Tribunal determination	764

8.3	Key facts	764
8.4	The essence of the difference between the parties	771
8.5	Tribunal analysis	775

CHAPTER 9: KO TE TURE MOTUHAKE MO TUHOE – THE UREWERA

	DISTRICT NATIVE RESERVE ACT	877
9.1	Introduction	877
9.2	Issues for Tribunal determination	879
9.3	Key facts	879
9.4	The essence of the difference between the parties	882
9.5	Tribunal analysis	890

VOLUME III

CHAPTER 10: ‘HE KOOTI HAEHAE WHENUA, HE KOOTI TANGO WHENUA’ – THE NATIVE LAND COURT AND LAND ALIENATION IN

	THE RIM BLOCKS OF TE UREWERA, 1873–1930	1003
10.1	Introduction	1003
10.2	Previous Tribunal findings accepted by this Tribunal	1006
10.3	Issues for Tribunal determination	1022
10.4	Key facts	1023
10.5	Why did the Native Land Court commence operations in Te Urewera, and why and how did the peoples of Te Urewera engage with it?	1038
	<i>Summary answer</i>	1038
10.6	Was the Crown made aware of court decisions that were alleged to have resulted in significant injustice and did it provide appropriate remedies?	1088
	<i>Summary answer</i>	1088
10.7	What were the Crown’s purchase policies and practices in Te Urewera?	1112
	<i>Summary answer</i>	1112
10.8	What were the costs to Maori of securing new titles to their land in the Native Land Court? Were these costs fair and reasonable?	1187
	<i>Summary answer</i>	1187
10.9	What protection mechanisms were there for Maori in respect of the alienation of land and how effective were those mechanisms in Te Urewera?	1272
	<i>Summary answer</i>	1272
10.10	What were the impacts on the peoples of Te Urewera of the operation of the Native Land Court and of the alienation of their ‘rim’ blocks?	1315
	<i>Summary answer</i>	1315

CHAPTER 11: TE MAHI TINIHANGA MO NGA WHENUA O WAIOHAU – THE WAIOHAU FRAUD	1353
11.1 Introduction	1353
11.2 Issues for Tribunal determination	1354
11.3 Key facts	1355
11.4 The essence of the difference between the parties	1358
11.5 Tribunal analysis	1360
11.6 Treaty analysis and findings	1406

CHAPTER 12: TE RUNANGA KAITIAKI WHENUA O TE TAIRAWHITI – THE EAST COAST TRUST	1411
12.1 Introduction	1411
12.2 Issues for Tribunal determination	1411
12.3 Key facts	1412
12.4 The essence of the difference between the parties	1416
12.5 Tribunal analysis	1420
12.6 Treaty analysis and findings	1450

VOLUME IV

CHAPTER 13: TE NGAKAU RUKAHU (THE CROWN’S PROMISE PROVES FALSE) – THE FATE OF THE UREWERA DISTRICT NATIVE RESERVE . .	1457
13.1 Introduction	1457
13.2 The Crown’s concessions	1458
13.3 Issues for Tribunal determination	1460
13.4 Key facts	1460
13.5 The essence of the difference between the parties	1467
13.6 Why Were the Self-government Provisions of the UDNR Act Defeated? <i>Summary answer</i>	1476
13.7 Why and How Did the Crown Purchase Extensively in UDNR Lands from 1910? <i>Summary answer</i>	1542
13.8 Treaty analysis and findings	1649

CHAPTER 14: TE WHAKAMOANA WHENUA – THE UREWERA CONSOLIDATION SCHEME	1659
14.1 Introduction	1660
14.2 Issues for Tribunal determination	1663
14.3 Key facts	1664
14.4 The essence of the difference between the parties	1681
14.5 Why was a consolidation scheme chosen for reserve lands? <i>Summary answer</i>	1689

14.6	By what process were interests consolidated and the land divided between Maori Owners and the Crown?	1729
	<i>Summary answer</i>	1729
14.7	What effect did the scheme have on Waikaremoana peoples?	1794
	<i>Summary answer</i>	1794
14.8	What agreements were reached about titles and how was the cost of surveys met?	1832
	<i>Summary answer</i>	1832
14.9	Should Maori owners have contributed 40,000 acres toward the cost of constructing two main (arterial) roads?	1883
	<i>Summary answer</i>	1883
14.10	Treaty analysis and findings	1934

VOLUME V

CHAPTER 15: KAI TE ORA TONU TE WAIRUA O WENEI TANGATA (THE SPIRIT OF THESE PEOPLE IS ALIVE) – THE IMPACTS ON MANA MOTUHAKE AND MANA WHENUA OF THE CROWN’S DEFEAT OF THE UREWERA DISTRICT NATIVE RESERVE ACT, AND THE UREWERA CONSOLIDATION SCHEME		1947
15.1	Introduction	1948
15.2	Mana motuhake: what were the impacts of Crown acts and omissions on self-government in Te Urewera and the relationship of its peoples with the Crown?	1951
	<i>Summary answer</i>	1951
15.3	Mana whenua: what were the impacts of Crown acts and omissions on hapu relationships with their land and on the economic capability of the peoples of Te Urewera?	1968
	<i>Summary answer</i>	1968
CHAPTER 16: TE KAPUA POURI – TE UREWERA NATIONAL PARK		2025
16.1	Introduction	2026
16.2	Issues for Tribunal determination	2033
16.3	Key facts	2033
16.4	The essence of the difference between the parties	2046
16.5	Why and how was a national park established in Te Urewera?	2055
	<i>Summary answer</i>	2055
16.6	How has the national park affected the economic opportunities of Maori communities in Te Urewera?	2119
	<i>Summary answer</i>	2119
16.7	Did the Crown purchase Manuoha and Paharakeke from informed and willing sellers and was the purchase fair in all the circumstances?	2208
	<i>Summary answer</i>	2208

CHAPTER 16—continued

16.8	How has the national park affected the ability of Te Urewera peoples to continue their customary uses of park lands and their exercise of kaitiaki responsibilities?	2245
	<i>Summary answer</i>	2245
16.9	To what extent have the peoples of Te Urewera been represented or otherwise involved in the governance, management, and day-to-day administration of Te Urewera National Park?	2325
	<i>Summary answer</i>	2325
16.10	Treaty analysis and findings	2346

CHAPTER 17: I PAKU AI TE PU KI MAUNGAPOHATU –

	RUA KENANA AND THE POLICE INVASION OF MAUNGAPOHATU	2367
17.1	Introduction	2367
17.2	Issues for Tribunal determination	2371
17.3	Key facts	2372
17.4	The essence of the difference between the parties	2378
17.5	Did the Crown’s attitude to Rua Kenana’s leadership of the Maungapohatu community have any influence on the charges laid against Rua between 1911 and January 1916 and on their outcome?	2381
	<i>Summary answer</i>	2381
17.6	Why did the Crown send a large armed police force to arrest Rua and was this action justified?	2404
	<i>Summary answer</i>	2404
17.7	Did the police behave fairly and reasonably at Maungapohatu?	2418
	<i>Summary answer</i>	2418
17.8	Treaty analysis and conclusions	2437
17.9	What were the impacts of the police action in 1916 on the Maungapohatu community?	2444
	<i>Summary answer</i>	2444

VOLUME VI

CHAPTER 18: TE KAUPAPA AHU WHENUA ME TE WHAKAAUKATI RAKAU – LAND DEVELOPMENT SCHEMES AND RESTRICTIONS ON THE USE OF NATIVE TIMBER

	2453	
18.1	Introduction	2453
18.2	Issues for Tribunal determination	2455
18.3	Key facts: land development schemes	2456
18.4	The essence of the difference between the parties	2488
18.5	Tribunal analysis of land development schemes	2492

18.6	Key facts: restrictions on the use of native timber	2552
18.7	The essence of the difference between the parties	2558
18.8	Tribunal analysis of timber restrictions	2561
18.9	Treaty analysis and findings: timber restrictions	2609

CHAPTER 19: NGA TONO WHENUA – SPECIFIC CLAIMS

(LAND TITLE ISSUES)	2613	
19.1	Introduction	2613
19.2	The Ruatoki–Waiohau Consolidation Scheme	2613
19.3	The Ngati Manawa Consolidation Scheme Claim	2639
19.4	The Ruatoki water scheme claim	2650
19.5	Te Whaiti Nui-a-Toi forestry lease	2657
19.6	Claims about the amalgamation of land titles in 1972	2684

CHAPTER 20: WAIKAREMOANA – THE SEA OF RIPPLING WATERS . . . 2739

20.1	Introduction	2739
20.2	Issues for Tribunal determination	2743
20.3	Key facts	2743
20.4	The essence of the difference between the parties	2757
20.5	What were the origins of the contest between Maori and the Crown over the ownership of lakes?	2767
	<i>Summary answer</i>	2767
20.6	What was the Crown’s response to the Maori claim for legal ownership of Lake Waikaremoana?	2800
	<i>Summary answer</i>	2800
20.7	What were the effects of the Crown’s denial of Maori ownership for 36 years?	2866
	<i>Summary answer</i>	2866
20.8	Why did it take so long for the Crown to negotiate an arrangement with the lake’s owners after it accepted their title in 1954?	2887
	<i>Summary answer</i>	2887
20.9	Was the 1971 agreement fair in all the circumstances and was it given proper effect in the Lake Waikaremoana Act 1971? What adjustments have been made since 1971 and with what results?	2953
	<i>Summary answer</i>	2953
20.10	What role have Maori played in the management of Lake Waikaremoana after entering into the lease? The claims of Nga Rauru o Nga Potiki and Ngati Ruapani	3012
	<i>Summary answer</i>	3012
20.11	Treaty analysis and findings	3076

CHAPTER 21: KA KOINGO TONU TE IHO O TE ROHE – ENVIRONMENT AND WATERWAYS	3095
21.1 Introduction	3095
21.2 Issues for Tribunal determination	3102
21.3 What is the relationship of the peoples of Te Urewera with their environment and waterways and how have they exercised authority over resources and waterways under customary law?	3103
<i>Summary answer</i>	3103
21.4 Key facts: Crown interventions in the environment of Te Urewera before 1954	3131
21.5 The essence of the difference between the parties	3137
21.6 To what extent did the UDNR agreement recognise the authority of Te Urewera peoples over the environment of Te Urewera and its waterways?	3144
<i>Summary answer</i>	3144
21.7 What were the Crown’s major interventions in the environment of Te Urewera before the establishment of the national park in 1954? Were those interventions conducted with the agreement of, or with due regard to the interests of, the peoples of Te Urewera?	3164
<i>Summary answer</i>	3164
21.8 Treaty analysis, findings, and recommendation	3249
21.9 Key facts: Whirinaki Forest	3262
21.10 The essence of the difference between the parties	3267
21.11 What influence and authority have Maori had in the management of Whirinaki Forest?	3272
<i>Summary answer</i>	3272
21.12 Treaty analysis and findings (Whirinaki Forest)	3289
21.13 Rivers: introduction	3292
21.14 Rivers: key facts	3293
21.15 The essence of the difference between the parties in respect of rivers	3302
21.16 How has the Crown exercised authority and control over Te Urewera rivers and has it taken due account of the rights and interests of the peoples of Te Urewera?	3313
<i>Summary answer</i>	3313
21.17 Treaty analysis, findings, and recommendation: rivers	3456
CHAPTER 22: NGA TONO ANGANUI – SPECIFIC CLAIMS	3467
22.1 Introduction	3467
22.2 Public works claims	3469
22.3 Rating claims	3496
22.4 Cultural property claims	3513
22.5 Schools claims	3515

CHAPTER 23: KAORE RATOU I TE WHAIWHAKAARO KI A MATOU – SOCIO-ECONOMIC IMPACTS, 1895–2005	3531
23.1 Introduction	3531
23.2 Issues for Tribunal determination	3533
23.3 The living conditions of the peoples of Te Urewera	3533
23.4 The essence of the difference between the parties	3571
23.5 Socio-economic framework	3578
23.6 What was the Crown’s response to Maori hardship in Te Urewera prior to the creation of the welfare state?	3580
<i>Summary answer</i>	3580
23.7 What effects did the expansion of the Crown’s role have on the well-being of Maori communities up to the 1980s?	3639
<i>Summary answer</i>	3639
23.8 What were the effects of State sector restructuring on Maori communities in Te Urewera from 1984?	3707
<i>Summary answer</i>	3707
23.9 Treaty analysis	3760
23.10 Conclusions	3782
 APPENDIX I: CLAIMS BY WAI NUMBER	 3801
 APPENDIX II: SELECT RECORD OF INQUIRY	 3805
Record of proceedings	3805
Select record of proceedings	3805
Select record of documents	3810
Documents from other records of inquiry	3836
 APPENDIX III: THE UREWERA DISTRICT NATIVE RESERVE ACT 1896	 3839
 APPENDIX IV: TURE RAHUI MAORI O TE TAKIWA O TE UREWERA 1896	 3847
 APPENDIX V: THE FIRST UREWERA COMMISSION’S HEARINGS AND THE RESULTS OF ITS WORK	 3855
 APPENDIX VI: THE UREWERA LANDS ACT 1921–22	 3863

SHORT CONTENTS

APPENDIX VII: OUTCOMES OF THE CONSOLIDATION PROCESS IN THE UDNR	3871
Glossary of Maori terms	3875
Select bibliography	3879

LONG CONTENTS VOLUME V

CHAPTER 15: KAI TE ORA TONU TE WAIRUA O WENEI TANGATA (THE SPIRIT OF THESE PEOPLE IS ALIVE) – THE IMPACTS ON MANA MOTUHAKE AND MANA WHENUA OF THE CROWN’S DEFEAT OF THE UREWERA DISTRICT NATIVE RESERVE ACT, AND THE UREWERA CONSOLIDATION SCHEME 1947

15.1 Introduction 1948

15.2 Mana motuhake: what were the impacts of crown acts and omissions on self-government in Te Urewera, and the relationship of its peoples with the Crown? 1951

Summary answer 1951

15.2.1 Political authority undermined through the defeat of the UDNR Act 1952

15.2.2 The damage to the peoples’ relationship with the Crown 1958

15.3 Mana whenua: what were the impacts of crown acts and omissions on hapu relationships with their land and on the economic capability of the peoples of Te Urewera? 1968

Summary answer 1968

15.3.1 Introduction 1971

15.3.2 Owners’ dilemmas: choosing which land to hold, and which to give up 1973

15.3.3 Loss of authority over significant wahi tapu and taonga to the Crown 1977

15.3.4 Continuing uncertainty about rights and titles 1982

15.3.5 The ultimate uncertainty: the Crown’s failure to produce land transfer titles, and the impact of multiple ownership 1985

15.3.6 Cumulative loss of economic capability: understanding the context of alienation of Reserve lands and resources 1987

15.3.7 Impact of forest losses in former Reserve lands 1989

15.3.7.1 Te Whaiti losses 1989

15.3.7.2 Forest losses at Waikaremoana 1994

15.3.7.3 Forest losses elsewhere in the Reserve 1994

15.3.7.4 Conclusion – forest losses 1996

15.3.8 Impact of loss of farming lands 1997

15.3.8.1 The farm lands of Te Urewera 1997

15.3.8.2 The impact of loss of farm land on Te Whaiti owners 2004

15.3.8.3 The impact on Tuhoe of land loss and the Crown’s failure to provide promised arterial roads 2005

15.3.9 The impact on the peoples of Waikaremoana 2019

15.3.10 Impacts on mana whenua – conclusion 2022

CHAPTER 16: TE KAPUA POURI – TE UREWERA NATIONAL PARK . . .	2025
16.1 Introduction	2026
16.2 Issues for Tribunal determination	2033
16.3 Key facts	2033
16.3.1 The establishment of a national park in Te Urewera	2033
16.3.2 Te Urewera National Park administration 1954–1980	2037
16.3.3 Te Urewera National Park Administration, 1980–90	2041
16.3.4 Te Urewera National Park administration, 1990–present	2042
16.4 The essence of the difference between the parties	2046
16.4.1 Why and how was a national park established in Te Urewera?	2046
16.4.2 How has the national park affected the economic opportunities of Maori communities in Te Urewera?	2047
16.4.3 Did the Crown purchase Manuoha and Paharakeke from informed and willing sellers, and was the purchase fair in all the circumstances?	2049
16.4.4 How has the national park affected the ability of Te Urewera peoples to continue their customary uses of park lands and their exercise of kaitiaki responsibilities?	2051
16.4.5 To what extent have the peoples of Te Urewera been represented or otherwise involved in the governance, management, and day-to-day administration of Te Urewera National Park?	2053
16.5 Why and how was a national park established in Te Urewera?	2055
<i>Summary answer</i>	2055
16.5.1 Introduction: why a national park?	2058
16.5.2 The origins of national parks: the development of official protections for parks and reserves	2059
16.5.3 Early Crown consideration of official protections for the landscapes and forests of Te Urewera	2065
16.5.4 The origins of the National Parks Act 1952	2075
16.5.5 Why did the Government want a national park in Te Urewera by 1952?	2082
16.5.6 Why was Te Urewera National Park created as a small park in 1954?	2091
16.5.7 To what extent were Te Urewera leaders consulted about the establishment of the park, and what account was taken of the interests of the peoples of Te Urewera?	2097
16.5.8 Why was the national park expanded in 1957, and were Te Urewera leaders consulted?	2107
16.5.9 The park's creation – conclusions	2117
16.6 How has the national park affected the economic opportunities of Maori communities in Te Urewera?	2119
<i>Summary answer</i>	2119

16.6.1	Introduction	2122
16.6.2	How did the Crown try to influence the use and development of Maori land adjacent to Te Urewera National Park?	2125
16.6.2.1	Introduction: The acquisitive park?	2125
16.6.2.2	Continuing Crown attempts to acquire 'Maori enclaves' and borderlands	2126
16.6.2.2.1	Overlapping policies – milling restrictions and attempts to expand the park	2132
16.6.2.2.2	Milling at Maungapohatu	2134
16.6.2.2.3	The purchase of Manuoha and Paharakeke for the park	2139
16.6.2.2.4	A blanket ban – the section 34 prohibition on activities causing erosion	2142
16.6.2.2.5	A new round of negotiations – Tuhoe try to salvage an economic future and the Crown tries to expand the park	2144
16.6.2.3	Lake Waikaremoana and the Waikaremoana reserves	2159
16.6.2.4	Conclusion	2175
16.6.3	What economic opportunities has the park presented to the peoples of Te Urewera?	2177
16.6.3.1	Introduction	2177
16.6.3.2	Commercial uses of the park	2179
16.6.3.2.1	Venturetreks and Te Rehuwai Safaris	2186
16.6.3.2.2	Adventure tourism	2190
16.6.3.2.3	Commercial hunting and aerial recovery	2191
16.6.3.3	Employment of local Maori in the park	2196
16.6.3.3.1	Paid employment, 1954–87.	2197
16.6.3.3.2	Employment by the Department of Conservation (post 1987)	2201
16.6.3.4	Conclusion	2205
16.7	Did the Crown purchase Manuoha and Paharakeke from informed and willing sellers and was the purchase fair in all the circumstances?	2208
	<i>Summary answer</i>	2208
16.7.1	Introduction: the specific claims about Manuoha and Paharakeke	2210
16.7.2	The Maori owners attempt to use their lands	2212
16.7.3	The intersection of Maori attempts to use their lands and Pakeha fears of soil erosion and flooding	2213
16.7.4	Were the owners willing sellers?	2222
16.7.5	The 'fair measurement and valuation' of Manuoha and Paharakeke	2225
16.7.5.1	The special Government valuation of the land is disputed	2226
16.7.5.2	The Forest Service appraises the timber, October 1960 to March 1961.	2227

CHAPTER 16—*continued*16.7—*continued*16.7.5—*continued*

16.7.5.3	Calculation of minimum and maximum values, April–August 1961	2229
16.7.5.3.1	The April–May valuations that resulted in the minimum and maximum values	2229
16.7.5.3.2	The dramatic change to the valuations after Cabinet approved the minimum and maximum values	2234
16.7.5.4	The Crown debates whether to proceed; the owners press for the sale to be completed	2236
16.7.5.5	The Crown takes its offer of £140,000 to the owners	2238
16.7.5.6	Conclusions	2242
16.7.5.6.1	Were the owners still ‘willing sellers’ by October 1961?	2242
16.7.5.6.2	Were the Maori owners ‘informed sellers’ in 1961?	2243
16.7.5.6.3	Was the Crown’s offer fair?	2244
16.8	How has the national park affected the ability of Te Urewera peoples to continue their customary uses of park lands and their exercise of kaitiaki responsibilities?	2245
	<i>Summary answer</i>	2245
16.8.1	Introduction	2248
16.8.2	How has the preservationist model been reflected in legislation governing national parks?	2250
16.8.3	How has the preservationist model of national parks administration been applied to Te Urewera National Park?	2258
16.8.3.1	Policy statements and master plans	2258
16.8.3.2	An alternative sustainable use model: indigenous peoples and national parks – official awareness of overseas developments during the 1970s and 1980s	2268
16.8.3.3	Maori and the preservation of their history in a ‘wilderness’ park – a romantic past presence? – the importance of history in park administration	2273
16.8.4	To what extent has the preservationist model affected Maori customary uses of park lands and resources, and their kaitiaki responsibilities?	2281
16.8.4.1	Use of horses in the park for access to Maori land and for hunting	2283
16.8.4.2	Use of dogs for hunting	2291
16.8.4.3	Customary harvest of plants	2295
16.8.4.4	Wahi tapu and taonga	2305

16.8.4.5	The Maungapohatu Burial Reserve	2312
16.8.4.6	Care of Taonga	2316
16.8.4.7	The park's effect on kaitiaki responsibilities – conclusions	2318
16.8.5	Conclusions	2319
16.9	To what extent have the peoples of Te Urewera been represented or otherwise involved in the governance, management, and day-to-day administration of Te Urewera National Park?	2325
	<i>Summary answer</i>	2325
16.9.1	Introduction	2326
16.9.2	To what extent have Te Urewera peoples been included in the statutory bodies with governance and management roles for the park?	2326
16.9.3	What opportunities have there been for input to park policies and plans?	2330
16.9.4	What opportunities have there been for Maori involvement in the day-to-day running of the park?	2335
16.9.4.1	Honorary rangers	2336
16.9.4.2	Hunting permits	2338
16.9.4.3	Tuhoe Wardens	2339
16.9.4.4	The 'Aniwaniwa model'	2340
16.9.4.5	Protest at Waikaremoana	2341
16.9.5	Conclusions	2344
16.10	Treaty analysis and findings	2346
16.10.1	The origins of a national park	2346
16.10.1.1	The Treaty context	2346
16.10.1.2	The Maori context	2347
16.10.1.3	The national interest context	2348
16.10.1.4	A clash of interests; a clash of opportunities	2349
16.10.1.5	Consultation: an opportunity and a breach	2349
16.10.1.6	A national park need not breach the Treaty.	2352
16.10.2	The prejudicial impacts of the national park	2352
16.10.2.1	The impacts of the park on the economic opportunities of its unwilling neighbours and residents	2352
16.10.2.1.1	Specific breaches – Lake Waikaremoana	2354
16.10.2.1.2	Specific breaches – the Ruapani reserves	2355
16.10.2.1.3	Specific breaches – Manuoha and Paharakeke	2355
16.10.2.2	The economic opportunities provided by the park	2356
16.10.2.3	The impacts of the park on Maori traditional uses and the ability of Maori to exercise kaitiakitanga	2357
16.10.3	The governance and management of the park	2361

CHAPTER 17: I PAKU AI TE PU KI MAUNGAPOHATU –	
RUA KENANA AND THE POLICE INVASION OF MAUNGAPOHATU	2367
17.1 Introduction	2367
17.2 Issues for Tribunal determination	2371
17.3 Key facts	2372
17.4 The essence of the difference between the parties	2378
17.4.1 Did the Crown’s attitude to Rua Kenana’s leadership of the Maungapohatu community have any influence on the charges laid against Rua between 1911 and January 1916, and their outcome?	2378
17.4.2 Why did the Crown send a large armed police force to arrest Rua and was this action justified?	2379
17.4.3 Did the police behave fairly and reasonably at Maungapohatu?	2380
17.5 Did the Crown’s attitude to Rua Kenana’s leadership of the Maungapohatu community have any influence on the charges laid against Rua between 1911 and January 1916 and on their outcome?	2381
<i>Summary answer</i>	2381
17.5.1 Introduction	2382
17.5.2 Rua’s rise to prominence and the Crown’s response, 1906–10	2383
17.5.3 Rua’s response to liquor laws and his first convictions for offences, 1910–15	2395
17.5.4 Rua’s 1915 convictions for offences and imprisonment for a 1911 offence	2400
17.5.5 Rua’s sentencing in January 1916 on the 1915 convictions	2401
17.5.6 Conclusions: the Crown’s role up to 1916	2403
17.6 Why did the Crown send a large armed police force to arrest Rua and was this action Justified?	2404
<i>Summary answer</i>	2404
17.6.1 Introduction	2405
17.6.2 The attempted arrest of Rua at Te Wai-iti, February 1916	2406
17.6.3 Attempts at political intervention, and Cullen’s preparations for an armed police expedition, March 1916	2410
17.6.4 Did rumours of Maori resistance justify the military-style expedition?	2415
17.6.5 Conclusions: the decision to send a large armed police force to Maungapohatu	2417
17.7 Did the police behave fairly and reasonably at Maungapohatu?	2418
<i>Summary answer</i>	2418
17.7.1 Introduction	2419
17.7.2 Conflicting accounts of the police arrival at Maungapohatu, 2 April 1916	2422
17.7.3 Conflicting accounts of the deaths of Toko Rua and Te Maipi	2427
17.7.4 The subsequent police occupation of Maungapohatu, 2–5 April	2431
17.7.5 Conclusions: the conduct of the police operation	2436
17.8 Treaty analysis and conclusions	2437

17.9	What Were the impacts of the police action in 1916 on the Maungapohatu community?	2444
	<i>Summary answer</i>	2444
17.9.1	Introduction	2444
17.9.2	The economic and social impacts of the police expedition	2445
17.9.3	The political and cultural impacts of the police invasion	2449
17.9.4	Conclusions: impacts of the police invasion	2450

LIST OF MAPS

VOLUME I

P.1	Te Urewera inquiry district	lxxii
1.1	Te Urewera inquiry hearings	2
1.2	Marae and communities of Te Urewera	10
2.1	Hirini Melbourne's map – Nga Iwi Onamata	18
2.2	Major tribal groupings in general locations	25
4.1	Eastern Bay of Plenty confiscation boundary	168
4.2	The north-eastern part of Elsdon Best's map	221
4.3	Tuhoe pa, kainga, and mara in the Waimana and Ohinemataroa Valleys	222
4.4	'Areas of interest' (A and B) designated in the Tribunal's findings	237
5.1	Te Kooti's movements in Te Urewera, February–April 1869	307
5.2	Colonel Whitmore's May 1869 military campaign	331

VOLUME II

7.1	Reconstructions of the Te Hatepe deed boundary and the boundaries of the Kauhoroa block and the Four Southern Blocks	754
7.2	'Chapman map' of the ECLTIA 1866 and 1867 boundaries, the Kauhoroa block, and the Four Southern Blocks	756
7.3	The original Te Hatepe deed sketch plan	757
7.4	The original 'Chapman map'	759

VOLUME III

10.1	Te Urewera 'rim' blocks (including Ruatoki) with dates dealt with by the Native Land Court	1004
10.2	The Tahora 2 block, including partitions	1030
10.3	The Waipaoa, Waiohau, and Waimana blocks, including partitions	1337

VOLUME IV

13.1	The Urewera District Native Reserve, within the wider inquiry district	xxx
13.2	From self-governing native reserve to national park	1459
13.3	Urewera District Native Reserve blocks as at 1907	1468
13.4	Crown purchasing in the Urewera District Native Reserve, 1910–21	1469

LIST OF MAPS

14.1	Land awarded to Maori owners and the Crown between 1921 and 1927 as a result of the Urewera Consolidation Scheme	1662
14.2	Land remaining in Maori ownership at the end of the Urewera Consolidation Scheme	1733
14.3	Land awarded to Maori owners in the former Ruatahuna block during the Urewera Consolidation Scheme	1777
14.4	Land remaining in Maori ownership in the Waikaremoana region by 1930	1797
14.5	Arterial roads promised in the Urewera Consolidation Scheme and roads built subsequently	1884

VOLUME V

16.1	Te Urewera National Park and Maori land. In 1954, the national park was created	2030
16.2	Land to be included in Te Urewera National Park at the time of its creation in 1954.	2093

VOLUME VI

18.1	The area covered by the first section 34 (Soil Conservation and Rivers Control Amendment Act 1959) notice in Te Urewera, issued in 1961 . . .	2557
18.2	The Tuhoë bushlands blocks, and the Crown lands (Matahina, Ashdown) offered for reciprocal lease in 1977	2585
19.1	Consolidation blocks created at Ruatoki, 1930–31	2617
19.2	Waiohau, pre-consolidation	2620
19.3	Waiohau, post-consolidation	2621
20.1	Location map.	2740
20.2	Lake Waikaremoana	2871
20.3	Lake Waikaremoana hydro scheme	3034

VOLUME VII

21.1	Whirinaki Forest Park	3263
21.2	Te Urewera inquiry district and waterways	3294
21.3	The ‘rim blocks’ and boundary rivers	3334
21.4	The four southern blocks and boundary rivers	3342
21.5	Crown river-bank reserves along the Tauranga (Waimana) River	3381
21.6	Crown river-bank reserves along the Tauranga (Waimana) River and Waiti Stream	3382
21.7	Crown river-bank reserves along the Tauranga (Waimana) River and Otapukawa Stream.	3383

LIST OF MAPS

21.8	Crown river-bank reserves along the Tauranga (Waimana) River and Otane Stream	3384
21.9	Land ownership and rivers in central Te Urewera	3401
22.1	Papapounamu access road	3472
22.2	Tahora 2F2 paper road	3476
22.3	Heiotahoka public works	3480
22.4	Te Kopani public works	3481
22.5	The Tuararangaia block	3517

VOLUME VIII

23.1	Communities in Te Urewera	xxviii
------	-------------------------------------	--------

LIST OF TABLES

VOLUME I

1.1	Tribunal hearings	3
4.1	A comparison of Tuhoē's total interests within the inquiry district with their interests in the Wai 36 Tuhoē boundary based on 'areas of interest'	238
4.2	A comparison of Tuhoē's total interests within the inquiry district with their interests in the Wai 36 Tuhoē boundary based on 'areas of interest'	239
5.1	William Colenso's population estimates from his December 1843 to January 1844 visit to Te Urewera	469
5.2	Hunter Brown's report of Te Urewera population	469

VOLUME II

7.1	Key provisions of the New Zealand Settlements Act 1863 and the East Coast Land Titles Investigation Act 1866 contrasted	588
-----	---	-----

VOLUME III

10.1	Alienations in the rim blocks of Te Urewera, 1878–88	1028
10.2	Alienations in the rim blocks of Te Urewera, 1888–1904	1032
10.3	Alienations in the blocks partitioned at original title hearing, 1888–1904	1033
10.4	Alienations in the rim blocks of Te Urewera, 1904–30	1035
10.5	Alienations in the partitions of the rim blocks, 1904–30	1036
10.6	Total alienations in the rim blocks of Te Urewera, 1878–1930	1038
10.7	Crown purchase of individual interests in Te Urewera in the 1890s	1141
10.8	The Crown's survey costs table	1207
10.9	Survey costs in Te Urewera rim blocks	1208
10.10	Amount of land alienated per tribal group by 1930	1334
10.11	Retention by land type in Te Urewera rim blocks	1348
10.12	Retention by forest type in Te Urewera rim blocks	1349
12.1	Tahora 2 lands and the East Coast trust	1414

VOLUME IV

13.1	Settlements as shown on Andrew Wilson's plan	1550
13.2	Crown purchasing in the UDNR before 31 March 1912	1558
13.3	Valuations of Te Whaiti land and timber, 1915	1631

LIST OF TABLES

13.4	Minimum timber royalties prescribed by regulations per 100 superficial feet	1640
14.1	Sittings of the Urewera Consolidation Commission	1676
14.2	Area of the Urewera Consolidation Scheme	1760
14.3	Steven Webster's calculations in support of a Crown 'windfall'	1761

VOLUME V

15.1	Reserve areas being farmed at the time of the Urewera Consolidation Scheme	2002
16.1	Te Urewera National Park administration, 1954–80	2036
16.2	Te Urewera National Park Administration, 1980–90	2040
16.3	Te Urewera National Park Administration since 1990	2044
16.4	Policy and objectives relating to commercial concessions, Te Urewera National Park, 1976–2003	2185
16.5	Paid Maori employment in Te Urewera National Park, 1967–86	2198
16.6	The valuations justifying the minimum and maximum price	2236

VOLUME VIII

23.1	Unemployment rates in Te Urewera census areas, 1991–2006	3563
23.2	Number and percentage of total population who can hold an everyday conversation in te reo, 2006	3570
23.3	Numbers and percentages of Maori by number of languages spoken, 2006 census	3573
23.4	Tuhoe, Ngati Manawa and Ngati Whare men registered on Eastern Maori electoral roll, with stated occupations other than 'pensioner', 1957 and 1969, by industry	3657
23.5	Te Urewera kaumatua flats and their purchasers, 1993–95	3745
I.1	Claims by Wai number	3801
V.1	The first Urewera commission's hearings and the results of its work	3856
VII.1	The outcomes of the division of the land between the Maori owners and the Crown at the Taurarau hui compared with the February 1925 final awards	3872

ABBREVIATIONS

AC	<i>Appeal Cases</i> (England)
AJHR	<i>Appendix to the Journals of the House of Representatives</i>
app	appendix
art	article
ATL	Alexander Turnbull Library
BPP	<i>British Parliamentary Papers: Colonies New Zealand</i> , 17 vols (Shannon: Irish University Press, 1968–69)
CA	Court of Appeal
ch	chapter
comp	compiler
DNZB	<i>The Dictionary of New Zealand Biography</i> , 5 vols (Wellington: Department of Internal Affairs, 1990–2000)
doc	document
DOC	Department of Conservation
DOSLI	Department of Survey and Land Information
DSIR	Department of Scientific and Industrial Research
ECEF	East Coast Expeditionary Force
ECLTIA	East Coast Land Titles Investigation Act
ECNZ	Electricity Corporation of New Zealand
ed	edition, editor
encl	enclosure
fn	footnote
fol	folio
GPS	global positioning system
GV	Government valuation
ha	hectare
intro	introduction
LINZ	Land Information New Zealand
ltd	limited
MA	Department of Maori Affairs file, master of arts
no	number
NZED	New Zealand Electricity Department
NZFS	New Zealand Forest Service
NZ ConvC	<i>New Zealand Conveyancing Cases</i>
NZLR	<i>New Zealand Law Reports</i>
NZPD	<i>New Zealand Parliamentary Debates</i>
p, pp	page, pages

ABBREVIATIONS

para	paragraph
PC	Privy Council
PEP	Project Employment Programme
pt	part
RDB	<i>Raupatu Document Bank</i> , 139 vols (Wellington: Waitangi Tribunal, 1990)
ROI	record of inquiry
s, ss	section, sections (of an Act of Parliament)
sec	section (of this report, a book, etc)
sess	session
SGGSC	Sir George Grey Special Collections
TEP	Temporary Employment Programme
trans	translator
UCS	Urewera Consolidation Scheme
UDNR	Urewera District Native Reserve
UDNRA	Urewera District Native Reserve Act 1896
UNESCO	United Nations Educational, Scientific, and Cultural Organisation
v	and
vol	volume
Wai	Waitangi Tribunal claim

Unless otherwise stated, footnote references to briefs, claims, documents, memoranda, papers, submissions, and transcripts are to the Wai 894 (Te Urewera) record of inquiry, a select copy of which is reproduced in appendix II. A full copy is available on request from the Waitangi Tribunal.

CHAPTER 15

**KAI TE ORA TONU TE WAIRUA O WENEI TANGATA
(THE SPIRIT OF THESE PEOPLE IS ALIVE) –
THE IMPACTS ON MANA MOTUHAKE AND MANA WHENUA OF
THE CROWN’S DEFEAT OF THE UREWERA DISTRICT NATIVE
RESERVE ACT, AND THE UREWERA CONSOLIDATION SCHEME**

A Waiata of Mihikitekapua

<i>Te roa o te whenua te tawhaia atu</i>	<i>I travel such a long way</i>
<i>E noho ana hoki au i Poneke raia.</i>	<i>To reach distant Wellington.</i>
<i>Awahi ana hoki au ko koe te Karauna</i>	<i>When I embrace you the Crown</i>
<i>Te whakairitanga mo te mate o te tinana.</i>	<i>I know it will destroy me.¹</i>

1. Tuawhenua Research Team, ‘Te Manawa o Te Ika, Part Two: A History of the Mana of Ruatahuna from the Urewera District Native Reserve Act 1896 to the 1980s’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc D2), p ii

The Claim of Wharekiri Biddle, Introduced by his Daughter, Hinerangi

‘K EI te puku o tana kereme, ko te whakakahore i te mana motuhake, kare i rereke i etahi o nga kereme a Tuhoe. Kore rawa ia e whakaaae kia riro ma te Karauna e tohu te huarahi mo nga whenua, me tana iwi. Otira koinei tonu te otinga atu o tana kereme.

- ▶ Te whakatakoto tikanga mo te whenua, e pa ana ki te Tuawhenua, me te whakakahore i nga tikanga whakahaere rauemi i raro i te mana motuhake.
- ▶ Te whakakiki kia totarawahiria nga rangatira o Tuhoe, me te kore e aro mai ki nga wawata o Tuhoe ki te whakatu i tona ake kawanatanga.
- ▶ Te hoko whanako i nga whenua o te Tuawhenua
- ▶ Te rukahu o te whakakotahi o Te Urewera, i kore ai e taea te ahu i nga whenua

- ▶ *Te whanako i te whenua i runga i te whakaara utu mo te ruri me nga utu huarahi i te kaupapa whakakotahi.*
- ▶ *Te hanga tuarua i nga mana hapu ki nga whenua o Te Urewera i raro i te kaupapa whakakotahi.*

‘... ko ana korero ki te Ropu me te Karauna. Ko tana korero ki a koutou, kia u tana kereme – me nga kereme a etahi – ki uta. Ko te tumanako kia u tika i enei raupanga me nga whakamanatanga e whai ake ana.’

A*T the heart of [my father’s] claim lies the prejudice against te mana motuhake o Tuhoe, as it lies in all the claims of Tuhoe. . . .*

- ▶ *The imposition of land tenure systems on the lands of the Tuawhenua with little regard for our own ways for managing resources under mana motuhake.*
- ▶ *The fuelling of the division in the leadership in Tuhoe, and the failure to acknowledge or support Tuhoe’s wish for its own local government.*
- ▶ *The illegal and unfair purchase of interests in the Tuawhenua lands.*
- ▶ *The deceit of the Urewera consolidation as an opportunity for our people to undertake development of their lands.*
- ▶ *The robbery of land through imposing survey and roading costs in the consolidation scheme.*
- ▶ *The reconstruction of hapu rights to the lands of the Tuawhenua through the consolidation scheme.*

‘. . . his words were for the Tribunal and the Crown. He wanted to tell you that he hoped his claim, and the claims of others, would not be in vain. That there was some hope for justice and fairness in this process and the processes of settlement to follow.’

Hinerangi Biddle¹

1. Hinerangi Biddle, kaikorero (Maori), no date (doc D31(a)), pp [2]–[3]; Hinerangi Biddle, kaikorero (English), no date (doc D31), pp 2–3

15.1 INTRODUCTION

For the peoples of Te Urewera, the impacts of the Crown’s failure to ensure the Urewera District Native Reserve Act (UDNR Act) was implemented as it should have been were deeply felt and enduring. They were impacts on all the peoples of Te Urewera: their mana motuhake and their mana whenua. Today, the most obvious symbol of dispossession is Te Urewera National Park, which was eventually created in place of the self-governing Reserve, on lands acquired by the Crown by

purchase in defiance of the provisions of the UDNR Act and through the implementation of the Urewera Consolidation Scheme (UCS) that followed.

In chapters 13 and 14, we have found that the Crown breached the Treaty, first in its failure to implement the UDNR Act in accordance with its provisions, and in the spirit of its agreement with Tuhoe and Ngati Whare, and subsequently in its design and implementation of the Urewera Consolidation Scheme. The Crown made little effort to ensure that the key promises of the UDNR Act were fulfilled: it failed to establish an effective system of local land administration and local governance, and it over-rode the provisions that would have protected the Reserve from piecemeal alienation. It then embarked on a programme of unrelenting purchase of individual owner interests, which it hastily legalised.

The Urewera Consolidation Scheme of the 1920s was itself a key prejudice arising from Crown Treaty breaches in respect of the Urewera District Native Reserve; but new breaches were committed in the scheme's design and implementation. In particular, the Crown failed to keep three promises made to owners of Reserve blocks at the start of the scheme: that no more individual interests would be purchased by the Crown until after the scheme was completed; that owners would receive land transfer titles to the new blocks that would emerge from the consolidation scheme; and that two arterial roads and side roads would be built to provide access to those blocks.

We have delayed until now our consideration of the impacts on claimants of the Crown's Treaty breaches in connection with the collapse of the Urewera District Native Reserve and the implementation of the consolidation scheme, so that those impacts can be weighed across the whole period covered by chapters 13 and 14 and the years that followed. We focus here on political impacts, and the most direct social and economic impacts of the Crown's broken promises and shirked responsibilities. Later in this report, we examine more broadly the socio-economic profile of the peoples of Te Urewera, from the late nineteenth century to recent times.

In broad terms, the period from 1896 to 1930 saw the dashing of the hopes of Te Urewera leaders. For Tuhoe and Ngati Whare in particular, the Crown's failure to ensure that its recognition of their *mana motuhake* (embodied in the Act) was followed by the setting up of the promised committees, and especially by the establishment of a strong bilateral relationship with their leaders through the General Committee (Komiti Nui), was a severe blow. The Act which should have guaranteed Maori ownership and management of Reserve lands had instead been the instrument of individualisation of title, extensive loss of ancestral lands, and increased community tensions. In the wake of extensive Crown purchasing during the latter part of the 1910s especially, Te Urewera communities (which had already endured a prolonged titles and appeals process with the Urewera commission and the Native Appellate Court) faced yet another reorganisation of their titles in the Urewera Consolidation Scheme, as well as substantial land deductions to meet their agreed share of the costs of surveys (to provide them with secure titles) and roads (to provide access to the land and transport of their produce).

Although, by the end of this period, the aspirations of Te Whitu Tekau leaders for Te Rohe Potae had been systematically thwarted by a series of Crown actions,



Robert Pouwhare

Whanau in support of Hinerangi Biddle, daughter of Wharekiri Biddle. Ms Biddle spoke in Te Whai-a-te Motu, Mataatua Marae (Ruatahuna) on behalf of her father to explain the significance of his claim against the Crown for 'all its policies, actions and omissions that disadvantaged the people of Ruatahuna and eroded our rights to exercise mana motuhake in Te Urewera'.

those aspirations remained. Tamati Kruger told us that even today, the legacy of Te Whitu Tekau leaders lives on to give strength to the people:

Kai te ora tonu wenei tangata – kai te ora tonu te wairua o wenei tangata . . . Ko ratau kanoahi kua ngaro atu engari ko enei kupu, te wairua o enei korero, e kore e mate.¹

These people are still alive – the spirit of these people is alive . . . Their faces have now disappeared, but their words and their feelings will never die.²

In this chapter, we trace the extent of the prejudice to the peoples of Te Urewera caused by the Crown's acts and omissions, as well as considering those which affected particular iwi. Our analysis focuses on impacts on mana motuhake

1. Tamati Kruger, claimant transcript of oral evidence (te reo), Mataatua Marae, Ruatahuna, 17 May 2004 (doc D44), p37

2. Tamati Kruger, claimant translation of transcript of oral evidence, Mataatua Marae, Ruatahuna, 17 May 2004 (doc D44(a)), p23

(political authority) and mana whenua (authority over land). We have asked two questions:

- What were the impacts of Crown acts and omissions on self-government in Te Urewera, and the relationship of its peoples with the Crown?
- What were the impacts of Crown acts and omissions on hapu relationships with their land, and on the economic capability of the peoples of Te Urewera?

15.2 MANA MOTUHAKE: WHAT WERE THE IMPACTS OF CROWN ACTS AND OMISSIONS ON SELF-GOVERNMENT IN TE UREWERA AND THE RELATIONSHIP OF ITS PEOPLES WITH THE CROWN?

SUMMARY ANSWER: The peoples of Te Urewera were prejudiced in both the short and the long term by the Crown's failure to ensure that the self-governing structures which were at the heart of the UDNR Act were established and became fully operational in a timely fashion. The General Committee, which was not set up until 1909, was placed under pressure by the Crown's new preoccupation with land purchase for settlement in the Reserve. The Committee's meetings became focused on responding to the wishes of the Crown to buy land, and there was no room for it to chart a course for the future, to consider its functions in relation to those of the komiti hapu, or to discuss how to manage the lands of the Reserve. The komiti hapu seem to have had only a brief life. One development initiative that was brought before the General Committee, and which it supported, was that of Ngati Whare for commercial cutting of their Te Whaiti timber in 1914, yet the Crown failed to take the necessary steps to bring this to fruition. As the General Committee was by now completely sidelined by the Crown, which began to purchase individual shares in Reserve blocks in defiance of the law, there was no further possibility of such initiatives. Maori self-government was left with no legal vehicle in the UDNR. The tribal and hapu committees could not protect the interests of communities as the Crown accelerated its purchasing throughout Reserve blocks.

The repeal of the UDNR Act by the Urewera Lands Act 1921–22 removed even the possibility that the General Committee might yet be revived. An Act which we found was of constitutional importance was simply set aside. Thus the peoples of Te Urewera lost the legal means of collective tribal representation in dealing with the Crown and with local government. After the mid-1910s, ad hoc tribal bodies were formed as needed. The first was a short-lived owners' committee to deal with Crown officials about consolidation, in 1921. The next was the Tuhoe komiti raupatu in 1923, which organised the Tuhoe claim against the Crown arising from the eastern Bay of Plenty confiscation (1866), and raised funds to support these efforts. In the 1940s and 1950s, tribal institutions were formed again – though this time their origins were rather different. At the local level, tribal committees were formed under the Maori Social and Economic Advancement Act 1945, an Act often criticised as being designed to limit Maori autonomy, rather than give full expression to it. In Te Urewera, however, some committees and their executives formed under this Act flourished over decades, involving their local communities fully

and turning them to their own purposes. Their vigour is a reminder of how komiti hapu might have operated much earlier to sustain their communities, had they not been marginalised by Crown inertia, or by Crown determination that there was in fact no place for them in post-UDNR Act governance. In 1958, the Tuhoe Maori Trust Board was formed to receive and administer the roading settlement compensation paid by the Crown for failing to honour its promises of roads, made at the start of the consolidation scheme. Though these were perhaps not the most auspicious circumstances for the rebirth of a tribal institution, the board served a useful purpose thereafter; its very origins, however, reflected the defeat of the self-governing institutions of 1896.

A further prejudice arising from the Crown's failure to see self-governing institutions firmly established in the Reserve was the damage to the relationship between the Crown and the peoples of Te Urewera. The Treaty relationship, once established, was permanent, but in the wake of the consolidation scheme it was in tatters. Te Urewera leaders attempted throughout to maintain that relationship. Tuhoe hosted governors, and were active during the First World War in assisting the war effort, establishing a recruiting committee, and raising funds – though Rua Kenana held himself aloof. Ngati Whare rangatira Te Wharepapa Whatanui also sought to keep his people's relationship with the Crown warm but was snubbed. Tuhoe, Ngati Whare, Ngati Manawa, and Ngati Ruapani were all disillusioned by the extent of Crown purchasing and the workings and outcome of the consolidation scheme; each of them suffered as a result. The defeat of the UDNR Act had left them unable to protect themselves from these acts, and their long-term grievances against the Crown were very evident in our hearings of their claims.

15.2.1 Political authority undermined through the defeat of the UDNR Act

The Crown's failure to ensure the early establishment of the komiti hapu and the Komiti Nui (General Committee) that was at the heart of the UDNR Act, and to ensure that self-government in the Reserve became a reality, was of lasting prejudice to Tuhoe, Ngati Whare, and the peoples of Te Urewera generally.

We emphasised in chapter 9 that the UDNR Act did not confer self-government on Te Urewera. The peoples of Te Urewera were already autonomous. What the Act did was recognise Maori authority – tino rangatiratanga or mana motuhake – and give it a vehicle: tribal committees. The key test of the Act, and the Crown's commitment to it, therefore, was the establishment of the committees and their becoming operational in a timely fashion.

The impacts of the Crown's failure of this test were legion. The still-fragile trust of Te Urewera leaders in Crown assurances, which they had made the difficult decision to commit to, soon began to unravel. In the end, the committees were created not because this was what the law required to give effect to its main purpose of self-government, but because the Crown found itself hoist by its own petard: it could not achieve its developing aims of opening Te Urewera to mining and to Pakeha settlement unless it negotiated with the General Committee. In other words, self-government in Te Urewera was no longer an end in itself to the Crown; it had become a means to an end.

It is hard to see how any institution could survive this kind of initiation. The test the Crown had set for the General Committee was whether it could embark on its role, years after it had expected to, and simultaneously withstand the pressures of meeting the Crown's agenda – an agenda which took little account of the aspirations of the peoples of Te Urewera. We have seen that the Crown wrongly gave Te Urewera leaders to understand that they had to meet the costs of surveys (which meant that they had to make land available for settlement), and that it interfered more than once in the composition of the Committee, changing the law to allow itself to do so. When Crown representatives belatedly went to Te Urewera to talk to their leadership, it was not to assist in the creation of all the committees, to get them up and running – but to indicate to the General Committee what the Crown's wishes were. The meetings of the Committee, therefore, were essentially dominated by discussion of how to respond to those wishes. There was no room for it to chart a course for the future, to consider its own functions in relation to those of the komiti hapu, or to discuss how to manage the lands of the Reserve. This was very evident in the virtual suspension of the Committee after purchasing was initiated but put on hold until the final stages of the titles appeals process were completed in 1913.

The impact of all this was to undermine local confidence in the General Committee's ability to represent their interests. The komiti hapu were involved briefly, presenting reports to the August 1909 meeting of the Committee about areas of land they wished to lease and develop; but the focus then shifted to the Crown's wish to purchase. Rua Kenana's anxiety to sell land to raise funds for development opened the door to Government intervention. Numia Kereru, the chairman, found it difficult to withstand this Government push, and its determination to secure Rua's place on the General Committee. Ngati Whare and Ngati Manawa had their own concerns. The Ngati Manawa rangatira, Harehare Atarea, was uneasy about the nominal authority of the General Committee (with its Tuhoe majority) over the Te Whaiti lands, at a time when the titles still had not been finally settled,³ and the Ngati Whare rangatira, Te Wharepapa Whatanui, was apprehensive in 1912 that the General Committee seemed not to know how to deal with their application to arrange timber-cutting rights with interested Pakeha. In such circumstances it was difficult for the General Committee to establish or maintain any unity of purpose.

It was especially telling therefore that in 1914, when titles had been settled, Ngati Whare returned to the General Committee to secure endorsement of their agreement with a commercial company to buy cutting rights to part of the Te Whaiti timber, only to meet with total disappointment. The Crown was now ready to roll out its own purchasing agenda with renewed vigour, and it allowed the initiative of Ngati Whare and the General Committee to get lost in the system, so that the proposed agreement never got off the ground.

3. John Hutton and Klaus Neumann, 'Ngati Whare and the Crown, 1880–1999' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2001) (doc A28), pp184, 187, 190

For both Ngati Whare and the Committee, the lesson was that any exercise of authority to progress Te Urewera development initiatives would be obstructed, rather than assisted. There was no point embarking on such a path. This lesson was rammed home as the Crown began purchasing from individuals in 1915, without involving the General Committee which under the law it should have made its purchases from. Finally, as we have seen, it legislated to legalise its proceedings. Its message was that if it did not need the General Committee for land purchase, it was not needed at all. The immediate prejudice, of course, was the removal of the key protective mechanism for individual owners that had been envisaged in the Act, to ensure that any alienation of Reserve land that might be considered necessary was carefully managed, so that the interests of communities were central.

The General Committee had little recourse in the face of such a systematic downgrading by the Crown of its role and functions. In a rearguard action, a number of petitions were sent to the Government, as we have seen. In 1918, Te Rawaho Winitana and 99 others asked the Crown to reappoint the Committee so it could administer the Waikaremoana, Ruatahuna, and Ruatoki blocks under the UDNR Act; they clearly saw what was missing, and still hoped some of the original purposes of the Act might be realised.⁴ The hope, after all, had been that komiti would manage development of their lands to engage with the colonial economy. Te Amo Kokouri and 121 others tried again soon afterwards, without success.⁵ The setting up at Ruatahuna of a komiti kaumatua to resolve disputes points to both the vacuum left in the absence of komiti hapu, and the fact that it had now to be filled informally, by local initiative – not under the Act. This was a telling commentary on the fate of self-government at the hapu level.

The consequence of the fate of the UDNR Act was that Maori self-government in Te Urewera was left with no legal vehicle. The repeal of the UDNR Act by the Urewera Lands Act 1921–22 removed even the possibility that the General Committee might yet be revived. We found in chapter 9 that the passing of the UDNR Act in 1896 was a high-water mark in that it placed Tuhoe and the Crown in a Treaty-based relationship for the first time and enshrined that relationship in legislation. The Act was also of constitutional importance; it was the first time the colonial state had recognised a Maori district to be set aside entirely as a reserve for its people, to be governed by them through a legally empowered local authority ‘in accordance with their own traditions.’⁶ It was a constitutional first for New Zealand, and for Maori. It created institutions through which the relationship between the peoples of Te Urewera and the Crown could be mediated – which was what Te Whitu Tekau had sought since 1872.

The Crown’s initial failure to ensure that key provisions of the Act were given effect to, its deliberate undermining of the Act, and finally its repeal of the Act,

4. Rawaho Winitana and 99 others to Minister of Native Affairs, 23 September 1918 (Cecilia Edwards, comp, supporting papers to ‘The Urewera District Native Reserve Act 1896, Part 3: Local Government and Land Alienation under the Act’, various dates (doc D7(b)(i)), p 1159)

5. SKL Campbell, ‘Land Alienation, Consolidation and Development in the Urewera, 1912–1950’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 1997) (doc A55), p 25

6. Richard Seddon, 24 September 1896, NZPD, vol 96, p 166

must signal that it rapidly back-pedalled from breathing life into the arrangement it had created with Te Urewera leaders. It spelt the end of the hopes built up by Te Whitu Tekau leaders, and that leaders such as Numia Kereru carried into the early twentieth century. The Crown's defeat of the UDNR Act did not, and could not, erase the Treaty relationship, for Treaty relationships endure. The Crown continued to owe Treaty duties to Tuhoe, as it always had; Tuhoe also had Treaty obligations, even in the face of its partner's Treaty-breaching acts. But the defeat of the Act brought to an end a unique period in the political history of the peoples of Te Urewera. The prejudice arising from the dismantling of their newly made constitutional arrangements was long term. From the 1910s, there was no statutory means of collective tribal representation in dealing with central and local government.

Once the General Committee had been totally marginalised by the Crown, such matters were dealt with by ad hoc bodies. When Tuhoe next faced the Crown on an issue of major tribal importance – negotiations about the consolidation of their lands – they had to do so through a newly constituted owners' committee. At that point, we note – after seven years without communication, and rejecting earlier Tuhoe requests that it be revived – the Native Minister looked around for the General Committee, wondering if it might not be useful in assisting the Crown through the consolidation process. This of course appears highly cynical. But in the absence of the Committee, an owners' committee was constituted at the Tauarau hui in 1921 specifically to negotiate with Crown officials and help kick-start the process of managing the redistribution of land rights, through directing the formation of consolidation groups. Its life was short in the extreme: two days – though it may have operated informally over some three weeks. After the Tauarau hui, the owners could engage only with the consolidation commissioners as relatively small whanau collectives.

Tuhoe's next major battle would be the pursuit of their confiscation claim against the Crown. For this they established a new komiti, the komiti raupatu, in 1923 – not long after the work of consolidation got under way. At the time a number of petitions were being sent to the Government in anticipation of an inquiry into confiscation. A major petition in the name of Te Kapo-o-te Rangi Keehi was sent on behalf of the 'tribes of Tuhoe' from Ruatoki in 1920; a Ngati Kareke petition was sent in 1924. The Sim commission sat at Opotiki and at Whakatane in March 1927; Captain William Pitt was hired to provide legal assistance to Tuhoe in their claim. As we recorded earlier, no Tuhoe people were called to give evidence before the Sim commission, and the commission's report barely addressed Tuhoe grievances; it merely concluded that confiscations in the Bay of Plenty affecting them had been 'fair and just'. Clearly Tuhoe were not considered to have any standing in proceedings of this kind, a result surely of the fact that they lacked a strong tribal body accustomed to deal with bodies such as the commission. The outcome, in our view, reflected and perpetuated an outmoded and ill-informed outsider view of the iwi simply as rebels (historically, it was quite wrong – see chapter 4), as if their subsequent relationship with the Crown had not been formed at all. That relationship had, however, been lost to sight, outside Te Urewera.

Thirty years later, the impact of the Crown's undermining of the exercise of

mana motuhake would be underlined further when Te Urewera National Park was created; as we will see, the peoples of Te Urewera were barely consulted about the establishment of the national park on the former Reserve lands. And though room was made for Tuhoe and later Ngati Kahungunu representation on the board that administered the park, they had no representation on the board as of right.

From the mid-1930s, Tuhoe leaders no longer sought tribal self-government from the Crown. They had been down that path, and it had led nowhere. They realised also that there was little appetite among politicians or the wider public to reinstate self-government, and they did not raise the prospect in discussions. By then they were preoccupied with the very pressing issue of the survival of their people on their ancestral lands. The activities of tribal committees established under new Government legislation (from the late 1940s), and the Tuhoe Maori Trust Board (from the late 1950s), reflect this focus in a new age.

Some hope was offered for the exercise of authority at the local level by the tribal committees and executives established after the Second World War under the Maori Social and Economic Advancement Act 1945. There were four executives (taraipara) in Te Urewera: Eastern Tuhoe (Waimana), Western Tuhoe (Ruatoki/Waiohau), Southern Tuhoe (Murupara/Minginui/Te Whaiti), and Tuhoe Manawaru (Ruatahuna). There was also a Waikaremoana tribal committee.⁷ The Crown characterised the Act as providing ‘for the social and economic advancement, and the promotion and maintenance of the health and general well-being of the Maori community’.⁸ Tribal executives (drawn from tribal committees, with a Maori Welfare Officer appointed by the Native Minister) had the power to make bylaws on water supply, health, sanitation, law and order (Maori wardens), recreation, and protection of burial grounds.⁹

It is evident from the limited evidence before us that Te Urewera committees in some areas were more active than in others, and that ‘[l]ocal leadership definitely participated’ in their work,¹⁰ though in Sir Hugh Kawharu’s view ‘[l]eaders recognised by traditional criteria did not . . . necessarily depend upon this committee organization for the exercise of their leadership.’¹¹ He may have had in mind a rangatira like Pakitu Wharekiri, whose authority throughout the whole valley

7. This committee was within the Ngati Kahungunu tribal district proclaimed under the 1945 Act in 1948; after 1962 it was within the Tai Rawhiti district: see map ‘Te Urewera District Maori Council and Maori Executive Areas’ in Evelyn Stokes, J Wharehuia Milroy, and Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera* (Hamilton: University of Waikato, 1986) (doc A111), pp 301, 303.

8. Crown counsel, statement of response, 13 December 2004 (paper 1.3.7), p 50

9. The Maori Welfare Act 1962, which expanded and revised the Maori Social and Economic Advancement Bill 1961, created the New Zealand Maori Council and district Maori councils, and renamed the tribal executive committees as Maori executive committees and the tribal committees as Maori committees. Welfare officers were no longer part of the committees and executives, though they could act as advisers: see sections 6(2), 9, 12, 15, and 17.

10. Brian Murton, summary of ‘Stage Three – Socio-economic Impact Issues’, 10 January 2005 (doc J10), pp 69–70

11. IH Kawharu, *Maori Land Tenure: Studies of a Changing Institution* (Oxford: Oxford University Press, 1977), p 174

at Ruatahuna was emphasised in the evidence before us (see chapter 2). He was, Rongonui Tahī told us, ‘the last rangatira to really enforce a form of traditional social control as part of our self-governance.’¹² We note that Pakitu Wharekiri was not a member of the first tribal executive elected at Ruatahuna, though he took the lead in the late 1940s in correspondence with the Welfare Controller in Wellington about how the committees were to work, and their responsibilities.¹³

Mr Tahī told us that the tribal executive ‘is the platform for all major issues that arise within each community and basically the marae are the focus of the executive . . . to assist marae committees and its structures to address certain issues, social issues, land issues, almost just about anything that affects a marae or hapu community’. The elders ‘are really the backbone of any executive’, right till the present day. And he agreed with counsel for Wai 36 Tuhoe claimants that Tuhoe had adopted the committees as their own.¹⁴ The Manawaru committee (Ruatahuna) was a community organisation, whose discussions ranged widely; a Maori welfare officer, Wishie Jaram, wrote in 1963 that the executive committee was the ‘driving force’ in the valley, dealing with all local matters: ‘I find they are not too bound in worrying about Committee procedure . . . what counts with the Committee in this area is that they are doing and carrying out the wishes of the people regardless of whether the suggestion came from a member or non-member.’¹⁵ In other words, the communities had made the new structures work for them. Fifty years after the passing of the UDNR Act, the promised komiti hapu had finally taken form in Te Urewera – but under a different Act, of national application, which spelt out quite different purposes for tribal committees. The Crown accepted the position of some claimants that despite the focus of the 1945 Act on economic development, the Native (later Maori Affairs) Department ‘retained control and decision-making functions over land, forestry and other enterprise.’¹⁶

The vigorous engagement of Tuhoe executives under the Act is a reminder of how komiti hapu might have operated much earlier to sustain their communities, had they not been written out of the script by Crown inertia, or Crown resolve that there was after all no place for them in post-UDNR Act governance. But under the 1945 Act their roles were limited. In general, executives represented local interests (particularly on health and education issues) to the Government on many occasions. The focus of the komiti hapu under the UDNR Act, by contrast, was intended to be the direction and management of local affairs and lands.

At iwi level, the Tuhoe Maori Trust Board was created in 1958, so that there

12. Rongonui Tahī, notes in English of evidence, 22 June 2004 (doc E26), p 2

13. Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two: A History of the Mana of Ruatahuna from the Urewera District Native Reserve Act 1896 to the 1980s’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc D2), pp 372–373

14. Rongonui Tahī, under cross-examination by counsel for Wai 36 Tuhoe, Mataatua Marae, Ruatahuna, 1 July 2004 (transcript 4.7, pp 197–198)

15. WN Jaram, welfare officer, ‘Report for period 1 January 1963 – 31 December 1963’ (Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), p 410)

16. Counsel for Wai 144 Ngati Ruapani, closing submissions, 3 June 2005 (doc N19), p 199; Crown counsel, closing submissions, June 2005 (doc N20), topic 39, p 28

was finally a Tuhoe authority. Ironically, the purpose of the board was to receive and administer compensation made for a previous Treaty breach: the Crown's failure to build the roads promised in the Urewera Consolidation Scheme. In other words, the creation of this new body marked the failure of the Crown to deliver on its earlier promises. Trust boards were, by this time, the Crown's preferred mechanism for delivering compensation to iwi; the Tuhoe Maori Trust Board was established under the Maori Trust Boards Act 1955. Brenda Tahī, for the Tuawhenua researchers, suggested that under the statute, the focus was on accountability to the Crown, and that it did not provide a system of accountability to the people.¹⁷ But at the time, Tuhoe saw the board as a useful tribal body. It became the only institution with the capacity to deal over the long term with officials and Ministers on behalf of the iwi and, as Tahī acknowledged, it had a wide range of responsibilities.¹⁸

15.2.2 The damage to the peoples' relationship with the Crown

For decades after the loss of the General Committee, Tuhoe were unable to deal with the Crown and its agencies from a position of strength. And not only was tribal governance fatally undermined by the Crown's defeat of the UDNR Act, but the impact of discarding the General Committee, sustained Crown purchase into the Reserve, and the implementation of the Urewera Consolidation Scheme on the relationship of the peoples of Te Urewera with the Crown was damaging in the extreme.

That relationship, which had begun so badly in the war years of the 1860s and 1870s, had made a new beginning subsequently, when there was de facto recognition of Te Whitu Tekau and its policies by Crown officials. In 1896, it finally seemed that a real basis for a strong future relationship had been achieved, but it could not simply be left to grow cold. Yet that was what happened. We have referred earlier to the growing anxiety of Te Urewera leaders about the slow establishment of the General Committee – though they countered this initially by making trips to Wellington themselves – but this anxiety was not easily laid to rest. In 1904, when Carroll accompanied the Governor, Lord Ranfurly, on a visit to Te Urewera, his rebukes of Tuhoe at the hui at Ruatahuna made a strong impression. When speakers voiced 'a distrust of the Government in regard to their lands', he dismissed their concerns, and was critical of their internal tensions in the Urewera commission hearings – as well as their dislike of the dog tax, and their inability to maintain their sheep.¹⁹ Binney, noting his exhortation that they be 'prosperous', pointed out that it was difficult to be prosperous 'when the staple crops have failed for six successive years . . . when there was a visibly high mortality rate amongst

17. Brenda Tahī, oral evidence, Mataatua Marae, Ruatahuna, 1 July 2004 (transcript 4.7, p 242)

18. From 1971 it became the Tuhoe-Waikaremoana Maori Trust Board.

19. Malcolm Ross, *Through Tuhoe Land: Lord Ranfurly's Farewell to the Maori People* (Christchurch: Christchurch Press, 1904), p 29 (Judith Binney, 'Encircled Lands, Part 2: A History of the Urewera, 1878–1912' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A15), p 300)

the young people as well as old; when there was no good land left in Tuhoe hands; and when there was no employment' (other than casual jobs).²⁰

Carroll's 'insults as a Minister of the Crown' would have cut deep, the Tuawhenua authors suggested; and the people's mistrust of him and of Crown policies was very evident in the waiata they composed subsequently.²¹ In February 1906, Ruatahuna leaders expressed their concerns in a public letter to the newspaper *Te Pipiwharauroa*, inviting the motu to the opening of the 'model pa' Te Tahi-o-te-rangi at Mataatua to be held the following month.²²

Haere mai ki te hui whakamaharatanga ki o tatou kaumatua kua ngaro ki te po, ngaro whenua, ngaro tangata, ngaro mana, ngaro mahi, me era atu tini mahi, i roto i enei ra o te Pakehatanga i te mea kua ngaro haere to taua ahua Maoritanga i runga i o taua moutere, ka hoki whakamuri te tangi o te ngakau ki nga mahi o te wa e mau ana to taua mana Maori ki runga i a taua.

Welcome to the gathering to commemorate our elders that have passed away, bereft of land, bereft of people, bereft of power, bereft of work, bereft of speech and many other things in these days of Pakeha influence, due to the oppression of our Maori influence in these islands, the heart turns back to grieve for the ways of the time when our Maori authority was fast in place over us.

The response of the leaders, the Tuawhenua authors explained, was 'the celebration of the model ancient pa': 'Na reira ka tumanako te ngakau kia whakamahia he pa whakamaharatanga ki nga mahi o nehera hei whakatopotanga mai i nga morehu o nga iwi e noho matara ana ki tera wahi ki tera wahi (For these reasons, the heart sought to erect a pa in commemoration of the ancient ways and to bring together the survivors of the tribes living on alert in all parts.)'²³

The pa, we were told, was an impressive sight. It was named Te Tahi-o-te-rangi for one of the great Tuhoe ancestors, a great tohunga – his name evoking 'powerful images of the supernatural, of great powers and influence', of the seas of the Bay of Plenty, and the Mataatua tribes. The pa symbolised the legacy of a 'proud and powerful past'; but also the importance to Tuhoe not just of looking back to times when mana Maori governed the people, but of regaining control of their destiny.²⁴ It was at this great hui – which Carroll attended, to discuss the Government's wish to open Te Urewera to prospecting – that Tuhoe established their own Komiti

20. Binney, 'Encircled Lands, Part 2' (doc A15), p 302

21. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 102

22. Rawiri Kokau and others, *Te Pipiwharauroa*, nama 95, Pepuere 1906 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 104). The building of a 'replica fighting pa' had originally been suggested by Lord Glasgow in 1896 as a tourist attraction: see Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 100.

23. Rawiri Kokau and others, *Te Pipiwharauroa*, nama 95, Pepuere 1906 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 104)

24. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 105



Malcolm Ross (ATL, PA1-Q-634-38)

Haka performed at Ruatoki during Lord Ranfurly's vice-regal visit, March 1904



New Zealand Government Tourist Department (ATL, PA1-Q-634-44)

Lord Ranfurly with Tuhoe leaders, Taurarau Marae, Ruatoki, March 1904. (Ranfurly is standing at left in the second row.) Leaders from other iwi had been invited, and about 1,000 people attended the gathering. Ranfurly's journey through Te Urewera was an important occasion for the peoples of the region and they had prepared for it with care; in the period following the Urewera District Native Reserve agreement, they attempted to maintain their relationship with the Crown.

Thomas Pringle (ATL PA110-042-17-2)



Te Tahio te Rangi, the 'model' pa at Mataatua Marae, Ruatahuna, circa 1910. Tuhoe, under the leadership of Te Whenuanui 11, built the replica fighting pa as a tourist attraction at the suggestion of Lord Glasgow. But the Ruatahuna leaders' invitation to the motu to attend the hui for the opening of the pa in March 1906 highlighted the broader purpose of the pa. Its construction commemorated 'ancient ways' and 'the legacy of a proud and powerful past'. Pakehatanga had brought oppression and loss, and Tuhoe must now take control of its destiny again.

Nui o Tuhoe. It was 10 years since the UDNR Act had been passed – which Tuhoe had expected to signal the control of their own affairs, with Crown recognition. Instead, they were still mourning the demise of Maori authority. And, as we have seen, their new Komiti would be short lived, as the Government moved slowly to establish a Committee under the UDNR Act, and to influence its membership.

Yet, through all these years, Tuhoe attempted to maintain their relationship with the Crown. When Lord Ranfurly visited Tauarau Marae at Ruatoki in 1904, medals that had been presented to a Te Urewera contingent on the occasion of the Duke of York's visit to Rotorua in 1901 were 'proudly worn' at Tauarau, 'affirmations of Tuhoe's sustained relationship with the Crown'.²⁵ The Governor's visit, Binney noted, had been prepared for with care; it was a great event, and leaders from other iwi had been invited. In addition (at Carroll's urging) the visit coincided with the second general conference of the district Maori councils, established under the Maori Councils Act 1900; delegates from the councils were therefore also hosted.

25. Binney, 'Encircled Lands, Part 2' (doc A15), p 307



Thomas Pringle, (ATL, PAI-0-042-13-2)

The women of Te Urewera hapu on the high earthworks of Te Tahī-o-te-Rangi Pa, Mataatua Marae, circa 1910. The roof of Te Whai-a-te-Motu can be seen centre right, with extensive clearings about.

Lord Ranfurly reported a mood of ‘fervent loyalty,’ and also sent medals to the chiefs at Ruatahuna and Ruatoki to commemorate their hospitality to him. He spelt out in his own notes the context in which he understood the significance of the invitation extended to him, and of the meeting. The people of Te Urewera, he said, had not been conquered in the wars, and had afterwards kept to themselves. Subsequently, ‘The treaty of peace between the Pakeha and this tribe took the form of a special Act of Parliament, which granted to them entire control over their own territory.’²⁶ As Binney rightly pointed out, however, what Tuhoe really wanted now were the promised committees – the vehicles of that self-government – and a ‘sustained relationship’ with the Government.²⁷ Visiting governors – even the Premier, in the case of Ward – maintained the relationship at a symbolic level; but it was the working relationship that was crucial – and that, as we have seen, had brought only discouragement.

26. Ross, *Through Tuhoe Land*, pp 67–68 (Binney, ‘Encircled Lands, Part 2’ (doc A15), p 308); Lord Ranfurly, ‘New Zealand Notes 1901–1904’, pp 396–397, 402–403 (Binney, ‘Encircled Lands, Part 2’ (doc A15), pp 298–299)

27. Binney, ‘Encircled Lands, Part 2’ (doc A15), p 309

In the First World War, Te Urewera leaders remained supportive. Even as the Crown embarked on its purchasing campaign in the Reserve, they embarked on assisting the war effort. That also was an exercise of *mana motuhake*. In 1916, though Rua Kenana was opposed to supporting the war effort, Numia Kereru established a recruiting committee, with representatives from Ngati Rongo, Hamua, Ngati Koura, Te Mahurehure, and Ngati Tawhaki. Herries recorded his pleasure at the 'loyalty of the Tuhoe tribe and the desire to raise men to fight'.²⁸ Even before this, as we have seen, Te Pouwhare wrote to the Government about the wish of Tuhoe to subscribe funds for the war effort, by selling shares in various blocks; he would write again in 1916.²⁹ Many Tuhoe men did go to the war (including a number from Ruatahuna). Their names were among those identified at a consolidation commission meeting in 1924 in a list of 31 Tuhoe men who had sold their lands before they enlisted, and returned 'landless'; they now sought land from the Crown. According to the Tuawhenua report, at least one of the Ruatahuna men became an owner in a block, which he later farmed.³⁰

But in the longer term, as Crown purchasing and the consolidation scheme unfolded over the next 10 years, followed by the disappointments of unfulfilled Crown promises of roads and titles, there would be a heavy toll on the relationship of Tuhoe with the Crown. It is evident in the claim of Wharekiri Biddle of Ruatahuna, part of which we cited at the beginning of this chapter, about which his daughter Hinerangi spoke to us. The claim is more than a statement of grievances arising from the Crown's land policies; it reveals a complete lack of faith in a Crown which could systematically pursue such policies. The words he chose ('te hoko whanako/the illegal and unfair purchase; 'te rukahu o te whakakotahi o Te Urewera/the deceit of the Urewera consolidation', 'te whanako i te whenua i runga i te whakaara utu mo te ruri me nga utu huarahi/the robbery of land through imposing survey and roading costs') conveyed his deep scepticism about the Crown's motives. And that scepticism was directed at what Mr Biddle clearly saw as the Crown's determination to undermine *mana motuhake*: 'Kei te puku o tana kereme, ko te whakakahore i te mana motuhake, kare i rereke i etahi o nga kereme a Tuhoe. (At the heart of [my father's] claim lies the prejudice against te mana motuhake o Tuhoe, as it lies in all the claims of Tuhoe.) But, his daughter added, the distinctiveness of his claim was its focus on social and economic issues, including economic development, local services, and road access. In his mind, she said, 'our elders were poor not just because they lost their land, but because they were kept poor by the government's intent and action.'³¹

28. Herries' note on Numia Kereru to Native Minister, 6 March 1916 (Cecilia Edwards, 'The Urewera District Native Reserve Act 1896, Part 3: Local Government and Land Alienation under the Act' (commissioned research report, Wellington: Crown Law Office, 2004) (doc D7(b)), p 226)

29. Edwards, 'The Urewera District Native Reserve Act 1896, Part 3' (doc D7(b)), pp 226–227

30. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 260–261

31. Hinerangi Biddle, *kaikorero* (English), no date (doc D31), pp 2–3; Hinerangi Biddle, *kaikorero* (Maori), no date (doc D31(a)), pp [2]–[3]



Makere Biddlew

Wharekiri Biddle of Te Urewera, Ngati Rongo, and Ngati Tawhaki. Mr Biddle filed a claim on behalf of the peoples of the Tuawhenua region. He passed away during the first Ruatahuna hearing in May 2004.

That lack of faith in the Crown was expressed also by Tamati Kruger in his evidence given at Maungapohatu. We have quoted it earlier in chapter 3, but we return to it here because its scorn of the values the Crown seemed to embody arose from the historical experience of Tuhoe:

Kua roa ahau e noho ana i tou marae, to te karauna . . . Ko au atu hoki ko te kotahi rautau ahau i aiane, e titiro ana ki a koe ki te karauna. Ae, he roa tou marae, te marae o te karauna . . . Engari tino popoto to pae-tapu. Ko te roa o to pae-tapu he nui noa iho mou. Ko koe ano, ko koe anahe ka ahei ki te noho i to pae-korero, notemea ko ingoa o to pae-korero ko 'Matapiko' . . . Ko te whare o te karauna, ae, he whare pai-kea, te whare o te karauna, ara atu te nui, ara atu te roa, ara atu te papai. Kii tonu i te whakaairo moni. Engari ko te tara-iti a to whare, he nui ake i te tara-nui notemea kua waiho e koe te wahi nui mou, a, ko te wahi iti mo nga manuhiri, kia kikini ai, kia kopapa ai te noho a o manuhiri.³²

I have been sitting at your marae of the crown for a long time . . . For 100 years I have observed you, the crown. Yes your marae is long, the marae of the government

32. Tamati Kruger, transcript of oral evidence, Mapou Marae, Maungapohatu, 21 February 2005 (doc K34), pp18–19

. . . But your sacred pew is very short. The length of your sacred pew is only long enough for you . . . One is [not] allowed to sit on your pew of speeches because the name of your pew of speeches is 'selfish' . . . The house of the crown is a whale house, as big and as long; it has all the modern conventions. It is full of dollar signs. However the host's privilege is wider than the guest's privilege, because you have commandeered the greater place for yourself and the narrower place for your guest, so they may feel the pinch and cramp.³³

Over time, the Crown, with its long reach, and its insatiable quest for power, had restricted Tuhoe in the exercise of their authority. Partnership, evidently, was of no importance to the Crown.

The experience of Ngati Whare, as it was explained to us, was also one of disempowerment. Their rangatira, Te Wharepapa Whatanui, had long been a force in Te Urewera by the time of the consolidation scheme. He had been a key speaker when Ngati Whare welcomed the Premier, Seddon, to Te Whaiti in 1894. He took up with enthusiasm Seddon's encouragement to establish a school (which Ngati Whare had in any case already written to the Minister of Education about), and the school was opened at the end of 1896.³⁴ The Education Department, according to Hutton and Neumann, considered Te Whatanui 'an important ally among a people who were thought to be at best indifferent towards the Crown and certainly no loyal subjects'; the department considered the school a 'far advanced outpost'.³⁵ Te Wharepapa Whatanui had sought development of the Te Whaiti timber resource over some years before the Crown defeated his attempts in 1914–15. He was a member of the General Committee. He had, as he reminded Carroll in 1910, made gifts to three successive governors when they had visited Te Whaiti and Ruatoki, and had donated land at Te Whaiti for a police station, and offered land to the Government.³⁶ Hutton and Neumann suggest, however, that Ngati Whare 'appear to have dropped from the Crown's view' after 1910.³⁷ The new Native Under-Secretary was unaware of who Te Whatanui was.³⁸ He remained an important leader, however. Ten years later, in the wake of Crown purchasing in the Te Whaiti blocks, Te Whatanui led a deputation to ask the Minister of Lands (and Prime Minister), William Massey, to partition the block and set aside an inalienable piece of land, about 1,000 acres, as a village for the people.³⁹ Nothing came of this request; officials were by then considering consolidation. By 1925, Te Whatanui was expressing to the Native Minister the full force of Ngati Whare disillusionment with the decisions of the commissioners, with the loss of

33. Tamati Kruger, claimant translation of transcript of oral evidence, Mapou Marae, Maungapohatu, 21 February 2005 (doc K34(a)), p 12

34. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 229–247

35. *Ibid.*, p 246

36. Whatanui to Carroll, 29 July 1910 (Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 219)

37. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 219

38. *Ibid.*, p 220

39. *Ibid.*, p 211

'large valuable areas' to the Crown, and with the prices paid by the Crown for their valuable timber, after prohibiting the people from dealing with companies which offered a much higher price.⁴⁰

Ngati Whare resentment would still be evident when official NJ Galvin of the Department of Lands visited Te Whaiti in 1936, and was received less than cordially. Given that Galvin proposed that the Crown buy the Te Whaiti Residue 2 block, it was not surprising that he got a 'frosty reception.'⁴¹ Pera Meihana told Galvin:

I think you are a bit late in the day. If you are to value our land, our afforestation, you should consider the land that has already been disposed of, a matter of thousands of acres. . . .

The Crown came along and bought our land, not only the timber but the land itself, at a rate of 8/6d per acre . . . A very valuable block, Te Whaiti No 2, had very valuable timber on it. The Crown came along and took our land, timber and all, 21/- per acre. Therefore, today – it is only today that I have realised, that this land that was taken by the Crown at 8/6d per acre and 21/- per acre, we were robbed of. We were simply robbed.⁴²

This was a graphic demonstration of Ngati Whare's view, 40 years after the UDNR Act, of their treatment by the Crown.

The peoples of Waikaremoana, finally, fared no better; they also have a dark view of the impact on their own authority of an overbearing and unresponsive Crown. The communities of Ngati Ruapani, Tuhoe, and Ngati Kahungunu had experienced military conflict in the 1860s, in what we found was a war of subjugation, followed by large-scale land alienation when the Crown subsequently acquired the four southern blocks as a result of repeated breach of Treaty principles. And although the Native Land Court had awarded the bed of Lake Waikaremoana to lists of Tuhoe, Ngati Ruapani, and Ngati Kahungunu owners in 1918, the Crown immediately lodged an appeal, which would not in fact be heard for more than 20 years, leaving ownership up in the air while the Crown began hydroelectricity development.⁴³ The Urewera Consolidation Scheme, as we have seen, left Ngati Ruapani at Waikaremoana with a fragment of their original lands. Ngati Ruapani retained just 14 small reserves in the Waikaremoana block, and Ruapani and Tuhoe owners retained only two of their southern blocks reserves.

40. Te Wharepapa Whatanui to Coates, 1 May 1925 (Richard Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi: A History' (commissioned research report, Wellington: Crown Forestry Rental Trust, 1999) (doc A27), pp 227–228); W Whatanui to Coates, 15 October 1925 (Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p 228)

41. Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p 230

42. Notes of a conference between Mr Galvin and representatives of the Maori people of Te Urewera, Te Whaiti, 5 July 1936 (Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p 230)

43. Tony Walzl, 'Waikaremoana: Tourism, Conservation & Hydro-Electricity (1870–1970)' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A73), pp 166–167

They had become isolated, hemmed in on small bits of land or dispersed to other areas.

The last straw was the Crown's defaulting on the terms of the debentures that Ngati Ruapani had finally agreed in 1921 would constitute the payment for their interests in Waikaremoana block. For nearly two years during the Depression, they received no interest payments at all, and this was followed by the Crown's reducing the rate of agreed interest payable to them (5 per cent) after the debentures were converted into Government stock paying a lower rate. Ngati Ruapani's reaction to the Crown's high-handed treatment was evident in a number of ways. A housing inspector who visited Waimako and Te Kuha in 1937 found that his offers of assistance were met with suspicion, because Maori were concerned they would risk being put out of their homes if they accepted Government help (of which they stood in great need) but then failed to make their repayments, and they would not sign the necessary forms. The prejudice arising from the shattering of their relationship with the Crown was such that they no longer even wished to accept Government help. The Gisborne Native Office commented at the time:

this Tribe are notorious for the hostile attitude they display to all overtures from Government bodies even though well intentioned, due entirely to what was considered unfair treatment in the past, particularly with the administration of Waikaremoana Debentures . . . every effort should be made to propitiate this unhappy Tribe.⁴⁴

As late as 1959, the people were still petitioning Parliament and putting their case to the Prime Minister, Walter Nash, in person, for payment of the full five per cent interest which they believed was due to them – because that was what had been agreed. How could the Crown unilaterally change the terms of such an important agreement?⁴⁵ And they were still getting no satisfaction. The Government, Nash told them, could not afford to pay more at the time; retrenchment during the depression affected Pakeha in the same way as Maori, and his Government had not been in power then.⁴⁶ These were not answers which laid the basis for rekindling a relationship.

The peoples of Waikaremoana no longer exercised authority over their own domain as they had in the past; little of that domain remained to them. And because of that, their mistrust of the Crown had become ingrained.

For Ngati Ruapani, Des Renata expressed their sense of helplessness:

44. Registrar, Native Land Court, Gisborne, to Under-Secretary, Native Department, 19 August 1937 (Vincent O'Malley, 'The Crown's Acquisition of the Waikaremoana Block, 1921–25' (commissioned research report, Tuai: Panekire Tribal Trust Board, 1996) (doc A50), pp 149–150)

45. Nash visited Ruatahuna in December 1959, and responded to the request put to him by Tui Tawera (signatory to the petition) for an answer on the debentures issue: see O'Malley, 'The Crown's Acquisition of the Waikaremoana Block' (doc A50), p 156.

46. 'Extracts from Representations to the Minister at Ruatahuna by the Tuhoe People', 11 December 1959 (Vincent O'Malley, comp, supporting papers to 'The Crown's Acquisition of the Waikaremoana Block, 1921–1925', 3 vols, various dates (doc A50(c)), vol 3, pp 808–809)

The Ngati Ruapani leadership structure has been broken as a result of the Crown actions and attitude towards Maori over the years. Our leaders had their mana diminished because what they said meant nothing to the Crown and they could make no difference. The Crown just had their set agenda.⁴⁷

Renata's words conveyed more than disillusionment with the Crown; they also underlined a strong theme that emerged from the evidence of some speakers at our Waikaremoana hearing: despite the inner strength of their whanau and communities, the people felt that outsiders considered them second class citizens; they could not be comfortable in a Pakeha world.

Jenny Takuta-Moses (Hinekura Te Riu) of Tuhoe, Ngati Hinekura, Te Whanau Pani, and Ngati Ruapani expressed her anger at the cumulative impact of Crown actions in these words:

You people from the Crown, you people who are not part of my ancestry, you have come into Waikaremoana and over 150 years or inside of three generations you have taken our mountains, our lakes, our forests, and our lands so we can no longer sustain a living. You have made us landless and homeless.⁴⁸

And Lorna Taylor of Tuhoe, Te Whanau Pani, Ngati Hinekura, and Ngati Ruapani ki Waikaremoana echoed the impacts of the Crown's acts on the people's relationship to the land and on mana motuhake:

Our kinship tie to the whenua has been eroded for we no longer have kainga around Lake Waikaremoana . . . Frustration for those of us that have been deprived of the richness within our culture abounds and as we have watched Te Mana Motuhake o Tuhoe being systematically eroded while our way of life also erodes has aggravated matters for many of our whanau.⁴⁹

Mana motuhake and mana whenua were eroded together – as other claimants in our inquiry stated too. Mana motuhake, after all, was required to protect mana whenua.

15.3 MANA WHENUA: WHAT WERE THE IMPACTS OF CROWN ACTS AND OMISSIONS ON HAPU RELATIONSHIPS WITH THEIR LAND AND ON THE ECONOMIC CAPABILITY OF THE PEOPLES OF TE UREWERA?

SUMMARY ANSWER: With the undermining by the Crown of the institutions through which mana motuhake, as guaranteed under the UDNR Act, was to be exercised, the ability of the iwi to protect their mana whenua was severely compromised. By the end of Crown purchasing and the consolidation scheme, Maori

47. Desmond Renata, brief of evidence, 22 November 2004 (doc I24), p 21

48. Jenny Takuta-Moses, brief of evidence, 18 October 2004 (doc H35), p 7

49. Lorna Taylor, brief of evidence, 18 October 2004 (doc H17), p 14

owners retained just under 165,000 acres of their former Reserve lands. The first prejudice therefore was the sheer amount of land lost. The majority was alienated through the purchase by the Crown of individual shares; further land was alienated as Maori owners paid in land for surveys (to assure themselves of state of the art titles promised by the Crown, which never eventuated) and arterial roads (which were never completed). The Crown emerged from the scheme with its many interests, purchased in most Reserve blocks, consolidated into one vast block, Urewera A. In the short term, because the Crown abandoned its plans for Pakeha farming settlement of the Reserve, it does not seem that the impact on customary uses of that land was marked. The impact on such uses by communities to whom the long-unused Crown land remained their backyard, and on their kaitiakitanga, would come later, when the Crown created the Te Urewera National Park on its land. In particular, it was only after this that Tuhoe discovered that the Maungapohatu burial reserve on their sacred mountain had not in fact been vested in them, a matter which deeply offended the people, but which was not resolved until 1977. There would be long-term impacts also on those communities whose lands were surrounded by the park, both of access to their own lands, and trespass by park visitors on their lands (we discuss these in chapter 16).

For the many Maori owners who retained at least some of their shares in Reserve blocks, despite the unremitting pace of Crown purchase, consolidation brought mixed results in terms of settling their titles. It meant that after a prolonged title process which they had embarked on in 1899 (the completion of which took far longer than they had expected, till 1913), they now had to begin again in 1921. During consolidation, their 51 blocks became 183 blocks held at whanau level. Hapu had failed to secure the titles they expected during the Urewera commission process; and Crown purchasing and consolidation finally put paid to any remaining hope of hapu titles. Whanau now had to choose which lands to hold and which to give up in order to consolidate their interests in no more than three of the newly created blocks; in short, they had to decide to give up associations with particular hapu and whanau food gathering and bird-catching places in order to concentrate holdings in areas of greatest ancestral importance to them, where they might also maximise their economic opportunities for the future. For many this meant difficult decisions, and sometimes uncomfortable outcomes in terms of tikanga both for those who moved out of blocks, and those into whose established areas they moved. By the end of consolidation owners at last had some certainty for the future as to which lands were theirs, and which belonged to the Crown, but they were prejudiced by the giving of so much additional land (31,500 acres) to pay for land transfer titles which they had been told would assist them in borrowing and land development. Not only was the promise a hollow one, but these titles were never produced by the Crown. Whether owners were prejudiced by the lack of such titles for their own development purposes is a moot point. Consolidation did not solve the problem all Maori owners faced in the absence of community titles, and because of the land court's decision much earlier that all heirs should succeed equally to the shares of a deceased owner. Fractionation of titles continued after consolidation, and lenders never looked kindly on multiple ownership.

The peoples of Te Urewera had already had their economic capability greatly reduced by extensive Crown purchasing in the 'rim' blocks and the four southern blocks – compounded, in the case of Tuhoe, by the loss of their best lands in the eastern Bay of Plenty confiscation. The most significant loss sustained by Maori as a result of purchasing in the Reserve, and consolidation, was that of three quarters of their forest asset. Ngati Whare and Ngati Manawa of Te Whaiti were the only block owners whose timber was valued separately from the land; they were however, greatly underpaid for their timber, and the Crown secured the financial benefit of much of that milling timber for itself. The hopes of Ngati Whare and Ngati Manawa rested on the timber milling industry that developed on their former lands, and the ongoing employment that it provided. Tuhoe owners in the rest of the Reserve who sold shares were paid nothing for their timber. Those who were awarded blocks with millable timber during consolidation were able to mill some of them from the 1950s when the Crown began accepting milling applications, some time after milling became commercially profitable. We explore the extent to which owners were allowed to mill their timber in later chapters.

The impacts of loss of farming land were not generally as great, partly because Maori did succeed during consolidation in retaining much of the land that was already cleared and farmed, and partly because the land was largely second or third class land anyway. Ngati Whare, however, lost three-quarters of the open land between Te Whaiti and Minginui to the Crown award – which might otherwise have stood them in good stead when cobalt deficiency was identified soon afterwards as the cause of 'bush sickness' in stock, and it was realised that the problem could be solved. As it was, they were reduced to a few blocks in the Te Whaiti Valley, with little hope of a secure economic future on their ancestral lands. In the wake of consolidation, Tuhoe's economic base had been further reduced to a series of blocks that would always offer limited opportunities for development. The difficulties they faced, however, were compounded by the Crown's failure to complete the arterial roads, or maintain the section it did build. Whakatane Valley lands were left without roads or tracks; the owners of Waimana series blocks had temporary road access only, until the road became impassable through lack of maintenance. Maungapohatu saw a first stage in construction – a six-foot track – but nothing more, and ultimately was left without decent access. Dairy farmers were severely affected; after consolidation they broke in new land, and co-operated to overcome the difficulties posed by lack of decent roads, and to support their families, until lack of road access brought them to a standstill. The core Ruatahuna and Ruatoki communities looked to the Government for assistance with land development schemes; but the future for many was more seasonal work beyond the rohe. For Ngati Ruapani and Tuhoe of Waikaremoana the position was worse. They had virtually no productive land, and few economic options. This was aggravated when the Crown failed to ensure payment of interest on the Ngati Ruapani debentures on time during the depression. By the 1930s those who visited the small Te Kopani reserve were shocked by the poverty there.

By 1930, the Crown owned four-fifths of the land in the former protected Urewera District Native Reserve. It was not left to the peoples of Te Urewera as

an endowment for the future, but was purchased for a purpose for which it was never used: Pakeha farming settlement. Ultimately the land would be used for the 'national interest'.

15.3.1 Introduction

The Reserve lands were the last lands of the peoples of Te Urewera; their owners in turn were to feel the full force of the impacts of the Crown's acts and omissions on their ability to exercise mana whenua and protect their lands: not only did they lose the greater part of their land, but they were left without usable titles, access to finance, and the infrastructure they needed for development. The exercise of mana whenua, as we explained in chapter 2, was integral to hapu identity and well-being. The impact of loss of land and authority over it on such a scale was therefore wide-ranging.

In the course of Crown purchasing (to March 1919), interests equivalent to 330,264 acres (that is, 51 per cent of the Reserve) – land which was not yet defined on the ground – passed out of the hands of the Maori owners. By the end of the Urewera Consolidation Scheme, with further purchasing, and the land acquired by the Crown for the costs of surveys and building arterial roads, this had increased to 482,300 acres. Loss of land on that scale in itself diminished mana whenua. And while customary rights were re-ordered into new blocks, each with lists of individually named owners, there was no sign of hapu titles in the new land records; hapu lands and authority were accorded no recognition. We found in chapter 13 that the Crown breached the principle of active protection in failing to intervene when it became clear that the Urewera commission was focused on lists of names and relative shares (mirroring land court practice), rather than on deciding the hapu titles that Tuhoe and Ngati Whare had been so anxious for. Customary rights had been replaced not by hapu or community titles (which would have prevented fractionation through succession), but by individualised titles. The Crown then failed to ensure that komiti hapu and the tribal General Committee – the new bodies specified in the UDNR Act – were established promptly, which left a management vacuum at the very point when management was most needed.

The prejudice arising from early Crown failures in implementing the UDNR Act affected all those who made claims before the Urewera commission. Their title problems began with the long delays before titles initially awarded by the commission were finalised, as the appeals process dragged on and on. This meant continuing uncertainty for those involved in appeals. The Crown's delay in providing for the hearing of appeals (not once but twice) meant that it was 1913 before many titles were finalised.

No sooner had the titles been finalised than the Crown began a period of intensive purchasing of Reserve lands, subjecting owners to yet another period of uncertainty about their titles. Those who did not sell had no means of knowing how their own interests might translate into land on the ground, and the Crown compounded this by preventing owners from securing partition orders in the Native Land Court. It could purchase in the Reserve because titles had been individualised, and because it decided, after an initial brief period from 1909 to

1910, to ignore the General Committee, opening new blocks to purchase according to its own timetable, and transacting with individual owners instead of the General Committee, as legally it should have. Owners were prejudiced in that they were denied the protection of the tribal body – as they had also been denied the active involvement of their komiti for a number of years, in decision-making about the future of their lands. That vacuum in itself would pave the way to easier purchase, for when it started, the komiti had barely had a chance to plan land use in a way which might have reassured those they represented. Owners were left facing a future in which their main options seemed to be wage earning away from home, and sale of some of their shares.

In the longer term, Reserve block owners were prejudiced further when they had to face the Crown's eventual solution to its unrestrained purchasing: a consolidation scheme. In the course of the scheme, owners saw their allocation to 51 Reserve blocks by 1921 (the number had grown from 34 in 1902) reworked, so that the much smaller amount of land they now retained was re-divided into 183 blocks. In accordance with Government plans for consolidation, these were, in essence, whanau blocks, approximating Western family holdings. Hapu titles remained unattainable. And nearly all the new blocks, unlike Pakeha family holdings, had multiple owners whose shares were succeeded to in accordance with the established land court system of equal succession.⁵⁰ Consolidation could not solve title 'problems' (problems which were the result of Crown policy and practice) while the introduced system of equal succession to an owner's interests continued – which it did, and largely still does.

As the Hunn report (1960) would later point out, consolidation might be described as 'long laborious and futile' – futile because, despite the initial reduction in numbers of owners, the ownership began to increase immediately, 'so consolidation is never really completed at all'.⁵¹ This is borne out in Te Urewera, where fractionation of title continued in consolidation blocks. An example is Ahirau block, 187 acres, for which title was issued to 20 owners on 10 April 1922; by 1995 the names of successors to just one of those owners covered pages of court records, and some of those held only 1/4158 of a share.⁵² This was the land holding system to which Reserve block owners were condemned by the failure to ensure hapu titles, the extent of Crown purchasing, and the nature of the Crown's solution to

50. Two blocks, Awamate and Waikotikoti No 1, were each awarded to just one owner: see Crown Law Office, comp, 'Urewera Consolidation Block Order Files (Ahiherua to Owaka)', various dates (doc M12(c)), pp [35]–[36]; Crown Law Office, comp, 'Urewera Consolidation Block Order Files (Paemahoe to Wharepakaru)', various dates (doc M12(d)), pp [464]–[465].

51. JK Hunn, *Report on the Department of Maori Affairs: with Statistical Supplement, 24 August 1960* (Wellington: Government Printer, 1961), pp 54–55 (Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One*, revised ed, 4 vols (Wellington: Legislation Direct, 2008), vol 2, p 737)

52. 'Urewera Consolidation Block Order Files (Ahiherua to Owaka)' (doc M12(c)), p [13]; Whakatane Maori Land Court, minute book 87, 2 March 1995, fols 158A–158Q

its own problem of extracting the countless interests it had purchased in a usable block of land.

In this section, we examine the impacts of the contraction from the larger Reserve blocks to smaller consolidation blocks that was the outcome of the dual processes of Crown purchasing and the Urewera Consolidation Scheme. Among these were the loss of significant wahi tapu and the Waikokopu Springs taonga (which the Crown took in its own award); and the loss of connections with ancestral lands as a result of choices owners had to make when they concentrated their remaining interests. We look also at the effects of the Crown's acquisition of 482,300 acres of former Reserve lands on the economic capability – or the economic power, as Tuhoe put it – of Maori owners of the former Reserve, coming as it did on the back of extensive land loss in other parts of Te Urewera.

15.3.2 Owners' dilemmas: choosing which land to hold, and which to give up

The Urewera Consolidation Scheme confronted owners with various painful choices. At the outset, owners were told that they might select no more than three blocks to take their interests in. Like players facing a discard, they had to decide which land should go and which they should hold. Most owners were well aware that this was their last chance to secure titles to land which might guarantee their future and those of their whanau and their uri whakatipu. Faced with a final decision which would allow them both to retain strong and enduring ties to areas of ancestral significance, and maximise their economic opportunities for the future, most owners chose only two blocks. Thus they concentrated their holdings in traditional areas of settlement which also contained the most usable land for crops and pasture, and which would be serviced by the promised roads; officials by and large were also willing to acknowledge that main settlement areas would remain in Maori ownership.

But this also meant that owners were required to sacrifice their connections to other lands of ancestral importance – all of the former Reserve, after all, was whenua tipuna (ancestral land). In Te Urewera, as in other areas where consolidation took place, this put many owners who wanted to retain their old settlements to which they had (in the official parlance of the time) 'sentimental attachment' (ancestral connection), in a difficult position. Raumoa Balneavis, as we have noted, drew attention to this at the start of the Urewera Consolidation Scheme process in 1921:

During the first week the more conservative elements in the tribe were in the foreground, showing naturally a hesitation to accept consolidation of interests in the fullest sense, and a disposition to magnify sentimental attachment to old kaingas (now practically abandoned) in preference to laying out new farming areas in accord with modern ideas of land settlement. . . .

The abolition of existing Native Land titles and tribal boundaries, and the substitution of Land Transfer titles for defined sections, sounded revolutionary enough to the

Ureweras. It meant to them that the land-marks settled after generations of quarrel and bloodshed and later of protracted litigation were to be wiped out. Their expressive way of stating the position was that the titles were to be 'whakamoana-ed' (literally put out to sea).⁵³

These words hint at the enormity of what people were being asked to agree to. Consolidation schemes always raised issues of tikanga, and clearly there were many who struggled both with abandoning land where their own rights were established, and taking up land where they had lesser rights, or no such recognised rights at all.⁵⁴

The scale on which Crown purchasing was conducted, and the consolidation scheme in which it culminated, would inevitably impact on a range of inherited rights to particular resources that whanau and hapu were accustomed to exercise. Stokes, Milroy, and Melbourne drew attention to established subtribe and family rights to particular food-gathering and bird-catching places, and to 'particular associations with certain places that give significance to plants gathered there.'⁵⁵ These were the rights people had to decide to give up – outside the main blocks that they now chose in the Urewera Consolidation Scheme. In the short term, those rights might or might not be affected; in the longer term, such decisions meant the surrender of rights over resources which were important for harvesting particular foods in season, and for contributions of prized foods on important community occasions when the mana of the hapu was at stake. With those rights, cultural knowledge began to be lost too – both techniques for catching birds and processing berries, for instance, and whanau and hapu histories associated with key sites for different foods and plants. The consequences of the Crown's acquisitions would not fully hit home until after the creation of Te Urewera National Park, and the imposition of restrictions on the use of the land and resources. In the short term, however, Maori owners would have felt the diminishment of their land base, as smaller blocks with new names were created.

Tuhoe owners made the difficult decision to give up their interests in the Waikaremoana block, which had been hard fought and won in the Urewera commissions, in order to concentrate their holdings in settlements which might better assist them to secure an economic future. But as we explained in chapter 14, owners made this decision only when facing the threat of compulsory acquisition in the Waikaremoana block, and because the extent of Crown purchasing in the Reserve made the option of a transfer of interests from the block to more northern blocks an attractive one. Ngati Ruapani and Ngati Kahungunu owners subsequently alienated their interests there when it seemed they were left with little choice. This contraction of their lands, following the earlier alienation of the four

53. Balneavis to Coates, 27 August 1921 (SKL Campbell, comp, supporting papers to 'Urewera Overview Project: Land Alienation, Consolidation and Development in the Urewera, 1912–1950', 3 vols, various dates (doc A55(b)), vol 2, pp152, 157)

54. Waitangi Tribunal, *He Maunga Rongo*, vol 2, p738

55. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 353

southern blocks, significantly damaged the ability of Waikaremoana peoples to maintain cultural knowledge and essential spiritual connections to the lake itself. Lorna Taylor spoke of social, cultural, and spiritual ramifications of the loss of land and the close association with the lake that was the outcome of this process:

The kinship we have with the elements is essential to maintain balance and harmony. The idea that you only take enough for that meal, and to return your first catch to the water was practiced by our father as he gathered kai for his whanau and is integral to this notion of balance and harmony. Our kinship tie to the whenua has been eroded for we no longer have kainga around Lake Waikaremoana and there is a deep sense of grief as our links to our ancestors are clouded with the pain of confiscation and denial.⁵⁶

Tamati Kruger explained to us that such losses had the effect of making Tuhoe anonymous – ‘He Whakamaui Tarawa – of unknown identity’.⁵⁷ He described the Crown’s determination to undermine mana whenua at Waikaremoana in these terms:

Na te whakawehe rawa i a Ngai Tuhoe me Nga Hapu o Te Urewera i o ratau whenua i ahei ai te Karauna ki te tango i te whenua me nga rawa. Ko te take, e kore e taea te wete i te hononga i waenga i te tangata whenua me ona whenua: Kei te whenua nga tikanga, ma te mana whenua e u ai nga kaupapa mo nga ra kei te heke mai. He nui nga tikanga i whakamahia e te Karauna hei whakatutuki i tenei ahuatanga i Waikaremoana. Ma te titiro ki nga whenua muru kei roto i nga pukapuka mahere, kua tapiritia atu nei ki enei korero, ka kitea te ngaro haeretanga o nga whenua o nga hapu o Te Urewera me Ngai Tuhoe, kia mahue mai ai he kongakonga noa iho hei turanga mo o matau waewae.⁵⁸

Separating Ngai Tuhoe and Nga Hapu o Te Urewera from their whenua was a primary prerequisite to facilitate the Crown’s designs of land acquisition and resource extraction. This is because the fundamental relationship between tangata whenua and their land is irrevocable: Tradition is Place, and sovereignty over Place is the basis for a sustainable future. The Crown used a variety of mechanisms to achieve this in Waikaremoana. The Confiscations in the map books accompanying this presentation show how the land base of Nga Hapu o Te Urewera and Ngai Tuhoe was whittled away until they had a mere fraction upon which to stand.⁵⁹

While some owners had to move out of blocks that were important to them, others had to accommodate them when they shifted. Relocating interests would be difficult for both groups. At Ruatahuna this would be compounded, we were

56. Taylor, brief of evidence (doc H17), p14

57. Tamati Kruger, brief of evidence (English), 18 October 2004 (doc H31), para 11

58. Tamati Kruger, brief of evidence (Maori), 18 October 2004 (doc H31(a)), p 4

59. Kruger, brief of evidence (doc H31), para 7

told, when the consolidation commissioners decided to put various groups of owners together in the Te Apitihana block. Ruatahuna, as we explained in chapter 2, has always been considered by its peoples as Te Manawa o Te Ika: the heart of the fish, the heartland of the Tuhoe people. Over centuries, new arrivals merged with older groups; new hapu consolidated, defending against threats from outsiders. Throughout this time, the peoples of Te Manawa o Te Ika maintained their mana whenua. By the nineteenth century, the Ruatahuna Valley was a place of closely layered customary rights. Te Whitu Tekau leaders sought to protect these rights through the UDNR Act, but the Urewera commission title processes led to much disappointment, as its titles process did not result in hapu titles in the Ruatahuna block, and it took years before a decision on partition of the block was reached during the Native Appellate Court proceedings in 1913. The block was initially divided into and investigated in three blocks: Ruatahuna, Huiarau, and Wai-iti, but it was decided in 1902 to treat the whole of the subdivisions as one block. Only in 1913 was the block partitioned into five areas.⁶⁰ This drawn-out process resulted in tensions between communities; tensions which surfaced again during the implementation of the consolidation scheme, dividing communities into pro- and anti-consolidation groups. The outcome was that different hapu interests were amalgamated into one block by the commissioners (the Apitihana block – which comprised Arohana (Ruatahuna 1), parts of Kahui (Ruatahuna 2) and Wai-iti (Ruatahuna 4), and some Tarapounamu–Matawhero lands). We were told that Apitihana groups largely comprised Te Urewera and Ngati Tawhaki hapu. Te Urewera owners who had been owners in the lands of Te Arohana and Kahui now became owners in Ngati Tawhaki's lands of Tarapounamu, and vice versa.⁶¹

Rongonui Tahi spoke with feeling about the impacts of consolidation and the creation of the Apitihana block by commissioners who 'could not define our rights properly'. Such impacts in his view extended beyond the loss of rights to deeper impacts on hapu identity, tikanga, and the preservation of cultural knowledge:

The Crown . . . put strangers into the Mataatua lands. The hapu who originally had rights in the bush blocks became owners here, irrespective of what hapu they came from. Those people do not have allegiances here and do not know the tikanga of this marae and hapu. . . .

It is not right that those people . . . should be owners of the marae.⁶²

Even within a single valley, the impacts of consolidation on mana whenua following Crown purchase or acquisition of land during the consolidation scheme could be marked. The casual attempts of consolidation commissioners to tidy up

60. Heather Bassett and Richard Kay, 'Ruatahuna: Land Ownership and Administration, c1896–1990' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A20), pp 91–93

61. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 174–175

62. Rongonui Tahi, brief of evidence on impacts of consolidation, 22 June 2004 (doc E25), p 2

the interests of those who opposed consolidation and would not cooperate would have long-term effects.

One further particular loss was that of Ngati Manawa, who moved out their shares in the Tawhiuau block and thus gave up their maunga tapu Tawhiuau (from which their Kura Kaupapa Motuhake o Tawhiuau takes its name). Ngati Manawa and Ngati Whare both gave up their shares in the block in order to concentrate their holdings around their main settlement in the Te Whaiti Valley, pooling their interests from the Otairi, Maraetahia, and Tawhiuau blocks, many of which were then placed by Knight in the Residue block, as he strove to secure as much of the timber lands for the Crown as possible. Their maunga is now in the National Park.⁶³

15.3.3 Loss of authority over significant wahi tapu and taonga to the Crown

Significant wahi tapu also passed into Crown ownership through the Crown's failure to create particular reserves for Maori, namely, the Maungapohatu burial reserve and the Huiarau reserve, and the Waikokopu Springs taonga. We have found that this failure was in breach of the Treaty principle of active protection. The people had sought these reserves, and there was legislative authority for the Crown to have made them. As a result of extensive Crown purchasing, and the Crown's control of the consolidation process, it was in a position to decide whether to grant requests for wahi tapu and other reserves, or not.

A taonga which was lost to Tuhoe authority, and in particular to Ngati Haka Patuheuheu, in the course of consolidation was the Waikokopu hot springs, on the edge of the Waikokopu River that runs close to Waiohau Marae from Pukehou mountain.⁶⁴ The importance of the ngawha to Ngati Haka Patuheuheu was discussed by Anitewhatanga Hare, who recalled a karakia passed down from her elders, sent by Ngatoro-i-Rangi to his tipuna in Hawaiki. Te Pupu and Te Hoata, the fire guardians, arrived, landing first at Whakaari (White Island), and 'left a trail of volcanic fire or mineral springs' on their journey. At Pukehou mountain, in Waiohau, they blew a trail of ahi tipua, sacred fires, opening up waterfalls of hot mineral water. This was their legacy for Waiohau Valley.⁶⁵ Hare described Tauheke pa on Pukehou mountain, and the use of the ngawha for healing, for bathing and (by tipuna kuia) for new born babies, and for strengthening babies' limbs and backs. Hikoi to the springs continue today, she told us, to keep the tradition alive.⁶⁶

Despite the importance of the ngawha to Ngati Haka Patuheuheu, however, and despite their representations to the consolidation commissioners that the 'waters were of great medicinal value & highly prized by the local people', the ngawha were awarded to the Crown by the commissioners.⁶⁷ On 27 February 1923,

63. Counsel for Ngati Manawa, closing submissions, 2 June 2005 (doc N12), pp 11, 49, 55-57, 74

64. Counsel for Wai 36 Tuhoe, closing submissions, 30 May 2005 (doc N8(a)), p 169

65. Anitewhatanga Hare, brief of evidence, 15 March 2004 (doc C17(a)), p 29

66. Anitewhatanga Hare, brief of evidence, 15 March 2004 (doc C17(a)), pp 30-31

67. Urewera commission, minute book 1, 27 February 1923 (doc M29), p 283; counsel for Ngati Haka Patuheuheu, closing submissions, 31 May 2005 (doc N7), p 146

when the commissioners met at Waiohau, it was stated by Wiremu Bird that the ‘elders had asked . . . to get reserved the Hot Springs within the Pukehou Blk’ and that ‘general approval was expressed by all those present’. But, as we have seen, the commissioners then decided to establish ‘an area of 10 to 15 acres as may be required to become Waikokopu Hot Springs’, to be included in the Crown award.⁶⁸ The reserve was shown as an 11-acre block encompassing Waikokopu Springs (labelled ‘Crown land’) on a 1924 plan, and was ultimately included in the Crown award gazetted as Urewera A on 23 June 1927.⁶⁹

Ani Hare spoke sadly of the dwindling of the ngawha, the loss of ‘bubbling pools’ and warm water as time passed, and forestry works began, with the roots of pine trees taking their toll. Yet, such wahi tapu were crucial for:

Ko nga WAHI TAPU te oranga o tenei hapu, o tenei iwi. Ma enei wahi, ka ora tonu te hapu, te iwi o tena whenua, o tena whenua. Ka ora tonu te ‘TINO RANGATIRATANGA’.

The survival of our hapu, and our iwi . . . Those special places give our people their TINO RANGATIRATANGA, their INHERITANCE, their LEGACY.⁷⁰

Counsel for Ngati Haka Patuheuheu spoke of the impact on the mauri of the taonga as a result of the Crown’s failure to protect it; he referred to Dr Suzanne Doig’s evidence that exotic forests could dry up spring-fed side streams, as pine trees sucked water from the soil.⁷¹ Geothermal waters, she said, could be affected in the same way – a point that the Crown accepted – though counsel added that knowledge of the water requirements of pine trees did not exist in the early part of the twentieth century when the forests in the region were developed.⁷² There is insufficient evidence before us on the specific impact of exotic forestry on Waikokopu Springs for us to be able to reach a conclusion on the point.

Counsel for Ngati Haka Patuheuheu considered the possibility that the Crown took title to the springs in order to create a trust for the people. If so, he said, there was no sign that it had managed them as a trustee. Instead, it seemed that

68. Urewera commission, minute book 1, 27 February 1923 (doc M29), p 283

69. For the 1924 plan, see ML 13614. The commissioners vested in the Crown all the Urewera Reserve (except those areas needed to satisfy native awards) on 16 July 1925: Urewera commission, minute book 2A, 16 July 1925 (doc M30), p 239. The chief surveyor approved sheet 1, ML 14218 (the survey plan of the Urewera A block, which included the 11-acre block at Waikokopu) on 6 December 1926. See also ‘Proclaiming Native Land to Have Become Crown Land’, 23 June 1927, *New Zealand Gazette*, 1927, no 43, p 2121.

70. Hare, brief of evidence (doc C17(a)), pp 16, 30–31

71. Counsel for Ngati Haka Patuheuheu, closing submissions (doc N7), p 149; Suzanne Doig, ‘Te Urewera Waterways and Freshwater Fisheries’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A75), p 220

72. Suzanne Doig, under cross-examination by counsel for Ngati Haka Patuheuheu, Rangitahi Marae, Murupara, 19 August 2004 (transcript 4.9, pp 166–167); Crown counsel, closing submissions (doc N20), topic 29, p 33

the springs had become part of the National Park.⁷³ The Crown agreed that this seemed to be the case; it was unable to clarify the matter further for us.⁷⁴ The relevant *Gazette* notice suggests, however, that Waikokopu Springs may well not be included in the park (though they are on Crown land between Pukehou and Tapakiekie blocks). The boundary description indicates that the National Park boundary ran along the southern, eastern and northern boundaries of Pukehou block.⁷⁵ This remains a live issue.

Authority over the Waikokopu springs has been lost to the hapu, and to the iwi. Initially this may have been simply because the commissioners lacked the authority to make the springs a reserve for Maori at the time when it was sought; though if so, we were not certain why they failed to advise Ministers that the reserve be created when an amendment to the law soon afterwards opened a path to that outcome. We are not certain why the Crown, 90 years later, would wish to retain the ngawha.

Requests for the setting aside of the Huiarau reserve (200 acres), and for the Maungapohatu reserve (500 acres) had also been made in 1923, and were dealt with in Wellington at the same time. Takarua Tamarau explained to the commissioners that Huiarau was regarded as 'a sacred place associated with their ancestors as recorded in their legends.'⁷⁶ The commissioners forwarded the request from Maori to the Native Department twice, in both 1923 and 1925; on the second occasion (following a meeting with people on the Waikaremoana block to discuss reserves there), they also sent a list of 14 'natives to be appointed trustees'. These included Rehua Te Wao, Waipatu Winitana, Tekoteko Hatata, Takarua Tamarau, and Karu Te Rangihau.⁷⁷ The Maungapohatu and Huiarau reserves were not made, which in our view was because the Crown wanted control of the area for 'Forest or Climatic reservations' and because officials baulked at the costs of surveying out six reserves (including three pua manu) requested at that time.⁷⁸ Thus, as the Tuawhenua report authors wrote about Huiarau: 'a significant waahi tapu of Tuhoe was vested in the Crown, later to become public property as a national park.'⁷⁹

73. Counsel for Ngati Haka Patuheuheu, closing submissions (doc N7), pp 148, 151. Counsel cited a map in the evidence of Tamaroa Nikora: see 'Survey Plan ML 21742 of Te Manawa-o-Tuhoe A Block', in Tama Nikora, 'Urewera Consolidation Scheme (1921-1926): An Analysis' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc E7), app C2(E), which contains an annotation of the 1957 *Gazette* notice enlarging Te Urewera National Park; the annotation however is incorrect.

74. Crown counsel, closing submissions (doc N20), topic 29, p 30

75. 'Adding Land to the Urewera National Park', 28 November 1957, *New Zealand Gazette*, 1957, no 89, p 2217

76. Urewera consolidation minute book 1, 25 April 1923, fol 336; Bassett and Kay, 'Ruatahuna' (doc A20), p 162

77. Carr and Knight to Under-Secretary, Native Department, 20 May 1925 (SKL Campbell, comp, supporting papers to 'Land Alienation, Consolidation and Development in the Urewera, 1912-1950', 3 vols, various dates (doc A55(c)), vol 3, pp 284-285)

78. Note endorsed on Knight and Carr to Coates and Guthrie, 6 August 1923 (Crown counsel, closing submissions (doc N20), topics 18-26, p 44)

79. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 181

The Maungapohatu burial reserve was also included in the Crown's large Urewera A block which the commissioners awarded to it in 1925; the block was gazetted Crown land in 1927. Though the burial ground was eventually returned, 50 years later, the failure to reserve it at the time would be an ongoing grievance for Tuhoe. This is hardly surprising. Stokes, Milroy, and Melbourne wrote of the significance of the maunga as 'the most tapu place, a burial ground and identifying landmark of the Tuhoe tribe'.⁸⁰ They pointed out that the creation of a reserve had first been raised with the Urewera commission in 1899, when Tukuaterangi emphasised its importance to the people:

that the whole mountain may be kept tapu, sacred, (whakatapua) for our burial places; Maori mana, identity and prestige are embodied in that whole mountain. Let 1000 acres be reserved, or less, and let the surveyor define this land correctly so that the Maori sacred places are protected. All our ancestral mana from time immemorial is enshrined in that mountain.⁸¹

Tamaikoha, Numia Kereru, and Tutakangahau all supported the request, and the chairman gave a favourable response. But in 1901 the chairman stated that the commission had 'no power to make reserves of this kind'.⁸² Twenty years later, at a consolidation commission hearing in January 1922, Pinohi Tutakangahau tried again, noting that the reserve at Maungapohatu had 'apparently been over-looked'.⁸³ The commissioners indicated they would recommend that the Crown permanently reserve 500 acres of the Maungapohatu mountain.⁸⁴ In 1924, a list of 24 names was put to the commissioners to be declared trustees of the Maungapohatu reserve under section 11 of the Native Land Amendment and Native Land Claims Adjustment Act 1923. This list was stated later to be 'representative of all Tuhoe hapu',⁸⁵ underlining its importance to the iwi. The same year, a survey was made of an area of 586a 3r 32p for the burial reserve.⁸⁶ But despite this, as we explained in chapter 14, title to the reserve was not created. It was however excluded from the Te Urewera National Park when the park was extended in 1957.⁸⁷

80. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 12

81. Urewera minute book 3, 29 March 1899, fols 182-183 (Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 12)

82. Urewera minute book 5, May 1901, fol 343 (Jonathan Easthope, 'A History of the Maungapohatu and Tauranga Blocks as Defined by the First Urewera Commission' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A23), p 255)

83. Urewera minute book 1, 22 January 1922, fol 17 (Tamaroa Nikora, brief of evidence, 16 February 2005 (doc K14), p 4)

84. Urewera minute book 1, 22 January 1922, fol 17 (Easthope, 'A History of the Maungapohatu and Tauranga Blocks' (doc A23), p 255)

85. Tamaroa Nikora, personal communication to J Easthope, 13 December 2001 (Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), p 256)

86. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), p 257

87. 'Adding Land to the Urewera National Park', 28 November 1957, *New Zealand Gazette*, 1957, no 89, p 2217

None of this was discovered until 1964, when the local people complained about visitors interfering with graves on the maunga (we discuss this further in chapter 16). But one impact of the Crown's failure to ensure that the burial reserve was made when it should have been was that it took a long time to uncover and rectify the problem. Even after it became evident (in 1974) that the Crown was prepared to return the reserve, questions of legal access, consultation with the park board, and how to achieve reversion (and in whom) all delayed things further.⁸⁸ It was November 1976 before the chief judge of the Maori Land Court heard an application that the reserve be set aside as a Maori reservation in accordance with resolutions passed at a general meeting of Tuhoe at Te Whai a te Motu (Ruatahuna). On 10 January 1977, the judge ordered the vesting of the reserve in 875 persons as tenants in common.⁸⁹ This list in fact included a number of Ngati Hinaanga. On 24 February 1977, the land was gazetted as a Maori reservation 'for the purpose of a burial ground and as a place of historical interest for the common use and benefit of the peoples of Tuhoe'.⁹⁰ And on 6 October 1977, the court vested the reserve in the Tuhoe-Waikaremoana Maori Trust Board to hold in trust for the beneficiaries.⁹¹

The depth of feeling among Tuhoe at the fate of the burial reserve, and its lack of title, was very evident during this period. At the September 1976 hui at Ruatahuna, John Tahuri spoke of the lack of title as 'a matter of continuing grievous harm to us', and of the delay since Ministers had been asked in 1971 and 1973 to return 'our sacred mountain'. Tama Nikora spoke of the meeting as the culmination of Tuhoe requests, pursued by the trust board, in line with the 'spirit of Tuhoe requests [which] indicate that Tuhoe desire to secure title to Maungapohatu and to keep the mountain sacrosanct forever'. He set the history of the Crown's failure to ensure that the reserve was made in the context of Crown involvement in Te Urewera over decades, including land dealings since the Waiohau fraud, artillery being stationed at Ruatoki and Te Whaiti after Tuhoe opposed Government surveyors in 1895, the UDNR legislation, followed by the worst fears of Tuhoe coming to pass, notably massive Crown land purchasing during the 1910s.⁹² Officials later struggled with the wording of a press release after the Minister asked for due publicity to be given to the Crown's return of the mountain to Maori. As the commissioner of Crown lands (Velvin) put it in February 1977:

88. On the issues that arose between 1974 and 1976, see Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 257–263.

89. The chief judge recorded that the land was vested in the 875 persons found to be owners by the second Urewera commission in 1907: see Rotorua Maori Land Court, minute book 184, 10 January 1977, fols 124–126.

90. 'Setting Apart Maori Freehold Land as a Maori Reservation', 24 February 1977, *New Zealand Gazette*, 1977, no 19, p 404

91. Rotorua Maori Land Court, minute book 187, 6 October 1977, fol 74

92. 'Minutes of general meeting of Tuhoe Tribe', Ruatahuna, 18 September 1976 (Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 260–261)

It would appear that the Tuhoe people were, and indeed still are, very aware that the Crown should probably never have acquired the Burial Reserve. This became evident during discussions at the recent Court Sittings when the Tuhoe Waikaremoana Maori Trust Board were reluctant to organise any festivities on their Marae in conjunction with the return of their Mountain.⁹³

Easthope noted that there is no evidence that the Crown ever offered an apology for its omission, or we might add, the prejudice to the people arising from the reserve being surrounded by the National Park (which we address in chapter 16).⁹⁴ For Tuhoe, there remain issues as to whether ‘all sacred sites on Maungapohatu were returned’, and how the burial reserve should be more effectively protected.⁹⁵

15.3.4 Continuing uncertainty about rights and titles

For the peoples of Te Urewera, the wrench of abandoning some ancestral lands in the course of the consolidation scheme, because they might seem of less economic use for the future, was increased by the realisation that the titles process they had grappled with between 1899 and 1913 was being superseded by a new process. Most saw little alternative to engaging, however, if they were to escape the no man’s land of uncertain titles in which Crown purchasing had stranded them.

Lack of certainty about titles caused problems which rose to the surface in various ways. Disputes occurred both during the period of Crown purchase and as the process of consolidation unfolded.

In the purchase period, there were tensions between sellers and remaining owners in a given block since it was not clear what had been sold and, therefore, what land and resources were retained by remaining owners. Owners who had not sold might find it difficult to protect what they regarded as their own resources. In one case, Tupata Tamana wrote to William Herries in March 1918 about sellers of shares who had been alarming the remaining owners in Ruatoki, Paraeroa, Taneatua, and Tarapounamu by coming onto the land and killing pigs and cattle, shooting birds, splitting posts, and lighting fires.⁹⁶ The same sort of uncertainty also clearly lay behind the 1923 request of some Ruatahuna owners to the consolidation commissioners for information as to who had sold shares in their blocks, so that they might draw some conclusions about the location of sellers’ interests. As Bassett and Kay suggested, these owners seem to have been thinking in terms of a Native Land Court partition, whereby traditional land areas of the sellers would be awarded to the Crown. Although they were opposed to consolidation, they still wanted their own lands defined and protected.⁹⁷ As we noted earlier, the

93. Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), pp 263–264; Velvin to Coad, 25 February 1977 (Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), p 264)

94. Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), p 264

95. Consolidated statement of Tuhoe claims, 15 February 2000 (claim 1.6(a)), p 19 (Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), p 266). In respect of the Maungapohatu mountain burial reserve, see also Tamaroa Nikora, brief of evidence (doc K14), p 8.

96. Campbell, ‘Land Alienation, Consolidation and Development’ (doc A55), p 21

97. Bassett and Kay, ‘Ruatahuna’ (doc A20), p 147

commissioners declined to supply lists of sellers' names, stating that they would fix the boundaries once they knew where 'non-sellers' wished to be located.

While unresolved titles led to tension within communities, they could also, on occasion, lead to tension with the Crown. A well-known case was at Te Whaiti, where the Crown took steps to stop owners using timber on the land while it was buying into the block. In 1917, the Crown responded to a small-scale post-cutting operation on the Te Whaiti 1 block by applying to the land court for an injunction against all timber cutting on the block. In other words, it faced the same problem faced by Maori owners who had not sold – a problem caused however by its own purchase of undivided shares and policy of delayed partition – how to protect interests in resources it believed it was entitled to. In this case, what was at stake was the Crown's undefined interest in valuable timber. The Solicitor-General's opinion was that, since those who had not sold were joint owners of the blocks with the Crown, there was nothing illegal in their cutting timber; but they must 'account to the Crown for the Crown interest in the timber so cut by them'.⁹⁸ The court granted the injunction, though it was 'sympathetic towards the argument of the non-sellers that they were prevented from deriving any benefit from their land', and did so only after Bowler waived any claim the Crown had to the royalty payment on the posts which had already been sold.⁹⁹ Such 'spurious magnanimity', as Boast called it, was evidently the result of Bowler's reading of both the court's attitude and that of owners: 'a claim for royalty on the part of the Crown would have created a lot of ill-feeling', he wrote, 'and would have greatly prejudiced future purchases'.¹⁰⁰

In effect, the Crown was able to prevent owners who did not wish to sell from using their timber resource at a time when they had few other sources of income. Bowler, Boast stated, was 'particularly vexed by the possibility that some of those cutting the timber had sold their interests to the government'; but this scenario, in Boast's view, was not typical: most who cut timber were non-sellers, or partial sellers, or were cutting timber on their wives' shares.¹⁰¹ Purchasing continued after 1917 until 1920, and the final surveying out of interests did not take place till 1924.¹⁰² Hutton and Neumann, in their evidence for Ngati Whare, described the move as 'effectively signalling an end to Ngati Whare's pit sawing and post splitting revenue' (though some illegal post-splitting may have continued).¹⁰³ The Crown refused owners' repeated requests for a partition, on Bowler's advice. The result of the economic constraints caused by Crown purchasing, in Boast's view,

98. Solicitor-General to Native Under-Secretary, 10 October 1917 (Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p178)

99. Klaus Neumann, "'... That No Timber Whatsoever Be Removed': The Crown and the Reservation of Maori-owned Indigenous Forests in the Urewera, 1889–2000" (commissioned research report, Wellington: Waitangi Tribunal, 2001) (doc A10), p 44

100. Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p180; Bowler to Native Under-Secretary, 3 January 1918 (Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p180)

101. Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p178

102. *Ibid*, p 224

103. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 211

was that owners were 'hemmed in . . . in every direction' and forced into 'an economic limbo'.¹⁰⁴

The consolidation scheme itself produced more difficulties in the 1920s, as owners sought the final security of title they had been promised. Disputes that came before the consolidation commissioners are a strong reminder of the disruption that the whole process caused on the ground among the people who had to work through the aftermath of decisions about where each of them would take their land. Owners found, for instance, that they might have to disentangle their interests in land held in common, or in other shared property.

The commissioners, to whom disputes over stock or dwellings might be taken, most commonly settled such arguments by deciding that the improvements would be left on the property, with the recipient of the land compensating the group that was moving out with an equivalent amount of interests, to be taken as land elsewhere in the scheme.¹⁰⁵ Another example is the Paraeroa–Taneatua sheep run, which had been managed by Te Hata Waewae; the payment of compensation in this case represented the break up of a joint venture. The run had carried 900 sheep and 40 cattle on four river flats (the Tatua, Rangahe, Rewatu, and Hakaukopua flats) and adjoining hill country.¹⁰⁶ As Te Hata Waewae explained to the commission, the sheep had cost £425, and he had put in a substantial part of this sum, but Tamarehe [Waewae] and Paora Noho had each also contributed to it. The latter's share had subsequently been bought out by Waihirere Whakamoe (since deceased), and his interest was represented by Noema Whakamoe, who had put in a competing claim for the same river flats. In recognition of Waihirere's contribution, Te Hata Waewae acknowledged a debt to Noema Whakamoe of £37, while '[i]t was also arranged between the parties that they themselves would settle the ownership of the sheep as some of the groups interested would get bush areas & would not therefore be in a position to feed them. Hata was to carry on in the meantime'.¹⁰⁷

One of the most heavily contested areas in the consolidation scheme process was the Paraeroa B flat, within the Paraeroa–Taneatua sheep run, which was claimed by no fewer than seven parties. In its decision, the commission disallowed all but three of the claims, but allowed Te Hata Waewae and Mihaka Matika to harvest their current crop on the cultivations they had claimed (which ended up on lands awarded to others), and to remove the fencing around these cultivations. But Mihaka Matika was given the opportunity to clear a new area for himself.¹⁰⁸ Another case of improvements being removed involved property at the Umuroa flat within Ruatahuna 5, which was subject to claims from Wahia Paraki, Matamua

104. Boast, 'Ngati Whare and Te Whaiti-Nui-a-Toi' (doc A27), p181

105. See, for example, Urewera commission, minute book 1, 27 February 1923 (doc M29), p277, about a large compensation involving two groups of claimants to Oputea: group 47C gave up shares equating to 120 acres from its award to group 47E.

106. Nikora, 'Urewera Consolidation Scheme' (doc E7), app D, pD-32

107. Urewera commission, minute book 1, 8 November 1922 (doc M29), pp191–193

108. Urewera commission, minute book 1, 16 May 1922 and 16 November 1922 (doc M29), pp129–134, 216–220

Whakamoe, and Wharepouri Te Amo. The commission opted to give most of the flat to Wahia Paraki's group, but set aside 12 acres for Matamua Whakamoe.¹⁰⁹ Subsequently, rather than receive compensation, Matamua Whakamoe removed a wharepuni, two kitchens, and two whata (elevated platforms for food storage) from the land that had been awarded to Wahia Paraki.¹¹⁰

15.3.5 The ultimate uncertainty: the Crown's failure to produce land transfer titles, and the impact of multiple ownership

While whanau were grappling with such day-to-day upheavals, the greater hope was that they would gain the state-of-the-art titles they had been promised, which would not only bring them security after a generation without it, but would allow them to reap the benefits of good titles: in particular, access to finance for development. Owners had been very aware of the problems caused by their unresolved titles, and by the general public view of Maori (that is, land court) titles as offering quite inadequate security for lenders. Fred Biddle, as we have seen, spoke of these problems in no uncertain terms to the parliamentary delegation that visited Ruatoki in February 1921: 'We are not the acknowledged owners of any piece of land – we have no title in the pakeha sense . . . Even if we had a title we have no money and the banks and other lending institutions will not lend to Maoris.'¹¹¹ Mr Biddle's complaint that banks and other institutions would not lend to Maori was hardly an over-statement. The Central North Island Tribunal, which considered the financial barriers to farming faced by Maori, concluded that they were 'caught in a vicious circle of debt, as prejudice and title difficulties forced them, in many cases, to rely on the more dubious and expensive private lenders.'¹¹² The Tribunal pointed to the difficulties Maori faced in entering farming on an equivalent basis to other landowners of limited means. In fact, under the provisions of the UDNR Act, owners of Reserve blocks could not have mortgaged their land anyway – even if their titles had been more settled through this period. Not until the completion of consolidation in 1927 could owners have attempted to raise finance.

One result of the lack of access to funding was that Te Urewera leaders looked to sell land to the Crown in order to fund land development – as Rua Kenana did in 1908, hoping to raise funds for clearing and stocking land at Maungapohatu, although interestingly his earlier preference seems to have been that the Crown advance funds for development.¹¹³ Hori Hohua and three others similarly contacted Carroll in 1912 stating they were 'anxious to sell' interests in Waikarewhenua, Omahuru, and Paraoanui in order 'to secure the money for the purchase

109. Bassett and Kay, 'Ruatahuna' (doc A20), p 148; Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 166–167

110. Urewera commission, minute book 2A, 11 March 1924 (doc M30), p 100

111. 'The Urewera Lands', 19 February 1921, *Whakatane Press* (Vincent O'Malley, comp, supporting papers to 'The Crown's Acquisition of the Waikaremoana Block, 1921–1925', 3 vols, various dates (doc A50(b)), vol 2, pp 559–560)

112. Waitangi Tribunal, *He Maunga Rongo*, vol 3, p 957

113. Edwards, 'The Urewera District Native Reserve Act 1896, Part 3' (doc D7(b)), pp 62, 70; Binney, 'Encircled Lands, Part 2' (doc A15), p 395

of milch-cows and sheep', and in 1915, Hohua told the member of Maui Pomare, that he and others were still keen on selling 'to get money for the purpose of improving those portions of our land which we desire improved as farms'.¹¹⁴ While it may have been more common for owners to sell simply to relieve immediate hardship, obviously any sale to raise development funds represented a loss of land that might have been retained if some form of alternative financing had been made available.

In the end, Maori owners had to offer more land – 31,500 acres – to pay for surveys, which would underpin the land transfer titles the Crown promised at the start of the UCS, and which they were assured would solve their problems. That too, was land they could ill afford to lose. As we have seen, land transfer titles were not obtained because the Maori-owned blocks were not supported by full survey plans and so could not be registered in the land transfer system. For Maori owners of the new blocks emerging from the consolidation scheme, like their predecessors, the UDNR block owners, secure titles remained a mirage. Thirty years of inquiry, presentation of evidence, title orders, and title reorganisation, had left them with little to show for their endeavours and compromises, for land transfer titles – even if they had been obtained – would doubtless not have met the needs of block owners. Consolidation, as we noted above, did not solve title problems because blocks were still multiply owned. Even where there were comparatively small numbers of owners in a consolidation block at the outset, succession meant that their numbers rapidly increased. And, as the Crown acknowledged, crammed titles were unattractive to potential lenders.

The difficulties still facing Maori farmers generally in accessing finance by the late 1920s were a key reason why Ngata, as Native Minister, embarked on his development schemes, with state provision of finance available nationally. And four such schemes were secured in Te Urewera, solving the immediate problem of development finance: Ruatahuna, Ruatoki, Waiohau, and the Ngati Manawa scheme (there were no schemes in the Waimana and Whakatane Valleys, or at Maungapohatu or Te Whaiti). We discuss the schemes further in chapter 18, along with a more far-reaching solution to title issues adopted across much of the UCS block lands as the development schemes began to wind down in the 1960s and 1970s – amalgamation accompanied by the establishment of trusts.

Ultimately, Reserve block owners and their descendants would face the same recurring title problems as Maori owners elsewhere whose lands had been through the land court and had been alienated through the purchase of individual shares. Like other owners, the UCS block owners had the worst of both worlds: they had neither legally recognised community titles, nor freehold individual titles. And Crown attempts to convert their various interlocking rights into titles which would be recognised in the colonial economy led simply to the undermining of mana whenua.

114. Hori Hohua and three others to Carroll, 1 March 1912 (Campbell, 'Land Alienation, Consolidation and Development' (doc A55), p 20); Hohua to Pomare, 21 August 1915 (Campbell, 'Land Alienation, Consolidation and Development' (doc A55), p 20)

15.3.6 Cumulative loss of economic capability: understanding the context of alienation of Reserve lands and resources

Given that mana whenua signifies the exercise of authority to ensure that land and its resources sustain the community, or as Tuhoe put it to us, economic power, what was the impact of the widespread loss of Reserve land and resources on the economic future, and the well-being, of the peoples of Te Urewera?

In general, counsel for the various claimants with interests in the former Reserve lands have argued that the cumulative effect of Treaty breaches was directly responsible for the lack of economic prosperity experienced by the UDNR and UCS block owners at the time and in the decades that followed. A particular grievance of the claimants is the Crown's failure to provide arterial roads, as promised under the UCS, rendering the development of many consolidation blocks impossible.¹¹⁵

The broad response of Crown counsel has been to argue that the Crown's actions in Te Urewera were not the primary drivers of economic deprivation suffered by Maori owners of the former Reserve lands, as they were greatly affected by changes in the wider economy, many of which the Crown was unable to control. Crown counsel also submitted that the Crown employed initiatives such as Maori land development schemes to help the peoples of Te Urewera catch up, so to speak, with the rest of the New Zealand in economic terms.¹¹⁶

The true effect of land alienation during this period can only be understood in the context of earlier losses. Before Crown purchasing began in the Reserve in the 1910s, the Crown's earlier Treaty breaches had already dramatically reduced the lands of the peoples of Te Urewera, and taken a heavy toll on their economy. For Tuhoe, there had been substantial losses from the 1866 eastern Bay of Plenty rau-patu, that is, of their rights and interests within 100,000 to 120,000 acres of land on the fertile coastal plain inland from Whakatane. In chapter 4, we estimated these to amount to an equivalent of 59,655 acres (within our inquiry district), or 71,136 acres (within the Wai 36 Tuhoe boundary). The confiscation cost Tuhoe the opportunity to further develop their arable farming operations, from which they had been deriving produce for commercial sale for more than three decades by that time. Effectively, the arable farming resource that was available to Tuhoe had been reduced by no less than one half by a single Crown action. This same land also had plenty of potential for pastoral farming, so Tuhoe might have become an important regional producer of wool, meat, and eventually butter and cheese. At the same time, the people also effectively lost their capacity to gather kaimoana from Ohiwa Harbour, depriving them of yet another key resource, and reducing their resilience when other food sources ran short.

115. Counsel for Ngati Haka Patuheuheu, closing submissions (doc N7), p164; counsel for Wai 36 Tuhoe, closing submissions, pt A, overview, 31 May 2005 (doc N8), pp 57–58; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 82, 135, 138–139; counsel for Tuawhenua, closing submissions, 30 May 2005 (doc N9), pp 205, 244; counsel for Nga Rauru o Nga Potiki, closing submissions, 3 June 2005 (doc N14), pp 349–350; counsel for Ngati Whare, closing submissions, no date (doc N16), pp 3, 86–87, 90, 121; counsel for Te Mahurehure, closing submissions, 14 June 2005 (doc N21), pp 14–15; counsel for Wai 144 Ngati Ruapani, closing submissions in reply, 8 July 2005 (doc N30), p 66

116. Crown counsel, closing submissions (doc N20), topic 32, p 2

Tuhoe, Ngati Ruapani, and Ngati Kahungunu lost just over 168,000 acres with the alienation of the four southern blocks (to the south-east of Lake Waikaremoana) in 1875. As described in chapter 7, this was mainly broken hill country, and thus not nearly as versatile as the coastal plains near Whakatane, but after the Crown acquired and on-sold it, it would be used as grazing land for livestock.

In the western and northern rim blocks, Native Land Court processes and subsequent Crown and private purchase led to further widespread alienations. In a series of transactions in the 1880s and 1890s involving the Heruiwi and Whirinaki blocks, their owners (mainly Ngati Manawa) lost to the Crown 10,000 acres of high quality podocarp forest (that is, all of it) and 20,000 acres with arable potential. And private buyers secured 30,000 of the 40,000 acres of high- to medium-quality arable lands from Tuhoe, Ngati Manawa, and Ngati Haka Patuheuheu respectively, in acquiring the northern half of Waimana, almost all of Kuhawaea, and the southern half of Waiohau 1. The latter sale, as seen in chapter 11, was based on fraud, and was grimly resisted by Ngati Haka Patuheuheu through the courts until their eviction in 1907. Kuhawaea and the northern half of Waimana were both developed as pastoral estates by their owners, although they subsequently became the location for dairy-based farm settlement schemes (Waimana in the mid-1900s and Galatea in the early 1930s), while the accessible podocarp forest became the western half of Whirinaki State Forest, in which the Crown began logging in 1938. The land with arable potential in Heruiwi (1–3), meanwhile, became part of the planted area of the Crown's Kaingaroa State Forest. What makes the losses of economic opportunity arising from these alienations even more poignant is that many of the employees in Kaingaroa Forest, and suppliers of goods (like fence posts) to the Galatea Estate, were to be drawn from the peoples of Te Urewera.

The total loss from the Raupatu, the alienation of the four southern blocks, and of the rim blocks (246,000 acres) by 1904 amounted to some 474,000 acres, or 37 per cent, of the 1,266,000 acres that the peoples of Te Urewera had originally had ownership rights to.¹¹⁷ Each of these processes had gnawed away at the land and resources available to the peoples of Te Urewera outside the UDNR. The economic resources available to iwi and hapu with interests in the Reserve were therefore greatly reduced by 1910 – when purchasing began – compared to what they had been five decades earlier.

By 1930, of their former holdings beyond the Reserve, Maori owners retained 80,404 acres, or just 13 per cent.¹¹⁸ The lion's share of the land in the former UDNR had been secured by the Crown through its purchasing programme and the Urewera Consolidation Scheme. Maori emerged from the scheme with a mere 106,287 acres which had been now divided into 183 blocks and 27 very small reserves. They still also had their remaining land in the Ruatoki blocks (after the

117. Calculated from our figures in chapters 4, 7, and 10.

118. This comprised 69,764 acres from the rim blocks, 10,498 acres from the four southern blocks, and 142 acres from the Eastern Bay of Plenty raupatu: see chapters 4, 7, and 10.

completion of the Ruatoki–Waiohau Consolidation Scheme) and a handful of other areas. Their total land-holdings in the former Reserve had been reduced from approximately 650,000 acres to just under 165,000 acres, that is, 25.3 per cent.¹¹⁹ This, in stark terms, was the fate of the Reserve which the UDNR Act 1896 was designed to protect. Overall, across both the former Reserve lands, and those outside the Reserve, Maori retained 19.3 per cent of the approximately 1,266,000 acres in our inquiry district. More than 80 per cent of their lands were no longer in their ownership.

How did the loss of so much land affect the economic capability of Maori communities who had already been working from a diminished resource base? We look first at the major resource that was lost – forest – and the intended use – farming – of the land that remained.

15.3.7 Impact of forest losses in former Reserve lands

The most valuable asset within the Reserve, or at least the one with the most prospective value, was not its agricultural land (despite the Crown's determination during the 1910s to establish farms for settlers there), but its timber. Most of the Reserve, after all, was made up of rugged hill terrain, and nine-tenths of it was under forest – the largest untapped forest in the North Island.

After the consolidation scheme, only about 85,000 acres of forest (of some 530,000 acres) in the former Urewera District Native Reserve was retained in Maori ownership in consolidation blocks.¹²⁰ And the only valuation which took separate account of the timber, before the Crown started purchasing in the 1910s, had been the one for Te Whaiti, where the timber had been ascribed a value of less than £30,000. The official view had been that timber only needed to be included in the land valuation if it could be economically extracted, and if there was an immediate commercial market. After all, what use was prospective value when the Crown wanted to open the land up for settlement straight away? The result was that the Crown paid less than £30,000 for the entirety of the timber it acquired from the division of the land.

15.3.7.1 Te Whaiti losses

Perhaps the biggest loss in terms of the forest resource was suffered by the Te Whaiti owners. The consolidation commissioners included all 12,000 acres of high value totara forest to the west of the Whirinaki River in the Crown award, as well as almost all of the rimu-matai-hardwoods forest flanking the open land

119. This figure (164,790 acres) includes former Reserve blocks which were not part of the Urewera Consolidation Scheme: Manuoha and Paharakeke, Tapatahi, Whaitiripapa, and the Ruatoki blocks (less some 2,100 acres, that is, total Crown awards in Ruatoki under the Ruatoki Consolidation Scheme).

120. We arrive at this figure by subtracting from the 590,000 acres in the UCS the 74,000 unforested acres referred to in McIntosh Ellis's 1923 report, minus the unforested proportion of Ruatoki (roughly 14,300 acres), which gives a figure of some 60,000 acres: see Director of Forestry to Minister of Forestry, 3 May 1923 (Paula Berghan, 'Block Research Narratives of the Urewera, 1870–1930' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2001) (doc A86), p 549).

on the eastern side of the Whirinaki Valley.¹²¹ Apart from some small bush areas at the back of Crown sections that were offered for sale or lease in 1924,¹²² all of this softwood and rimu-matai-hardwoods forest was subsequently transferred into Whirinaki State Forest, in which milling began in 1938.¹²³ In comparison, Ngati Manawa were restricted to patches of rimu-matai-hardwoods forest on the Minginui block, and a few hundred acres of lower value rimu-tawa forest in the Tawa-a-Tionga and Ponaua blocks in the north-west corner of Te Whaiti, while Ngati Whare were left with about 7,500 acres of less valuable rimu-tawa and tawa forest, again in the north-west corner of Te Whaiti, and in blocks alongside the Okahu Stream.¹²⁴ From 1928 onwards, Ngati Whare and Ngati Manawa tried to make the most of their reduced timber assets by securing private milling agreements for areas of a number of blocks.¹²⁵

As a result of Crown purchase and the consolidation scheme, the owners of Te Whaiti 1 and 2 blocks secured only part of the value of their trees – though the most prized timber in the Reserve, as described in chapter 13, was to be found in the softwood (podocarp) forest at Te Whaiti. Its value was greater, as concerns had begun to be expressed in official circles from about 1907 that the once boundless national supply of native timber would soon start to run out.¹²⁶ In 1923, the value of the forests across the whole Reserve was estimated by the Director of Forestry, Leon MacIntosh Ellis. As we have seen, he told the Minister of Forests, Sir Robert Heaton Rhodes, that:

The Urewera forest wealth indeed is one of the greatest national forest assets controlled today by the State . . . It is estimated that there are between five and eight thousand million super feet of useable and merchantable timber in the Urewera with a composition of approximately 60 per cent Rimu, Matai, Totara, White Pine and Miro, and 40 per cent Beech, Tawa, Maire and miscellaneous.¹²⁷

121. Moka Apiti, 'Wai 894 – Te Urewera: Inquiry District Overview Map Book, Part 3' (commissioned map book, Wellington: Crown Forestry Rental Trust, 2003) (doc A132), map 27

122. The inclusion of forested areas in the Crown sections between Minginui and Te Whaiti can be seen in the map in Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 201.

123. Apiti, 'Inquiry District Overview Map Book, Part 3' (doc A132), map 27; SKL Campbell, 'Te Urewera National Park 1952–75' (commissioned research report, Wellington: Crown Forestry Rental Trust, 1999) (doc A60), map 2; Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 11

124. Determined from visual inspection of forest boundary and block boundary: see Ngati Whare map book (doc G33), maps 11B–11F; Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 524, 574; Apiti, 'Inquiry District Overview Map Book, Part 3' (doc A132), map 27. For block acreages, see Nikora, 'Urewera Consolidation Scheme' (doc E7), tbl D.

125. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 228–230; Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 308–321, 325–326, 330; Neumann, "' . . . That No Timber Whatsoever Be Removed'" (doc A10), pp 60–71

126. Brian Murton, 'The Crown and the Peoples of Te Urewera, 1860–2000: The Economic and Social Experience of Te Urewera Maori' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc H12), pp 729–730

127. Director of Forestry to Minister of Forestry, 3 May 1923 (Berghan, 'Block Research Narratives' (doc A86), p 549)

Ellis expected that the forests of the former UDNR would in future produce 50 million superficial feet per year.¹²⁸ These estimates of timber volume may have been somewhat on the high side; an assessment of 40,000 acres of forested land in the Ruatahuna and Tarapounamu blocks in the 1950s found that they contained 230 million super feet of timber.¹²⁹ Projecting the average timber volume from this assessment, that is, 5,750 super feet per acre, over the whole forested area of the Reserve would give a total of around 3,250 million super feet. Even so, this would still give a prospective value in the 1920s (using Ellis' 60:40 proportion) of more than £1.05 million.

Had Ngati Whare been able to finalise their agreement with private sawmillers (by selling timber-cutting rights through the district Maori land board) before the Crown began purchasing (which they were well on the path to achieving once they secured General Committee approval in 1914), and had the price for cutting rights been agreed at, say, £4 an acre for 25,000 acres, they might have been looking at an overall figure of £100,000 (minus land board deductions). This was more than three times the timber value ascribed by the Crown to both Te Whaiti blocks when it was poised to begin purchasing. By 1914, Ngati Manawa were looking at the Ngati Whare initiative with interest, and might well have followed suit.

The contrast between the potential value of the Te Whaiti timber and the amount paid by the Crown for these blocks when they were purchased is even more striking; as of July 1921, the total spent by the Crown in acquiring shares in Te Whaiti 1 and 2, Maraetahia, Tawhiuau, and Otairi stood at £42,793.¹³⁰ The owners of the Te Whaiti (series) blocks might well have been able to keep their lands intact for future use, such as exotic forestry plantings, if a regular income had been available. The denial of opportunities to derive income through the sale of timber-cutting rights as Ngati Whare hoped to achieve thus had a longer-term impact on development.

In the long term, the Crown's acquisition of Te Whaiti did lead to some economic opportunities for Ngati Whare. Hutton and Neumann note that Ngati Whare 'embraced the [employment] opportunities offered by the Forest Service between 1938 and 1986', and also 'made the best of a bad situation' in regards to deriving revenues from the Te Whaiti Nui a Toi forest lease. The Ngati Whare township of Minginui, 'arguably the only Maori-owned kainga in New Zealand', was centred on forestry income.¹³¹ On the whole, however, the establishment of the timber industry on the back of aggressive Crown purchasing consigned Ngati Whare and other Te Urewera peoples to the role of labourers and indirect beneficiaries, where they might have been owners.

128. Director of Forestry, to Minister of Forestry, 3 May 1923 (Paula Berghan, comp, supporting papers to 'Block Research Narratives of the Urewera, 1870-1930', 18 vols, various dates (doc A86(j)), vol 10, p3425)

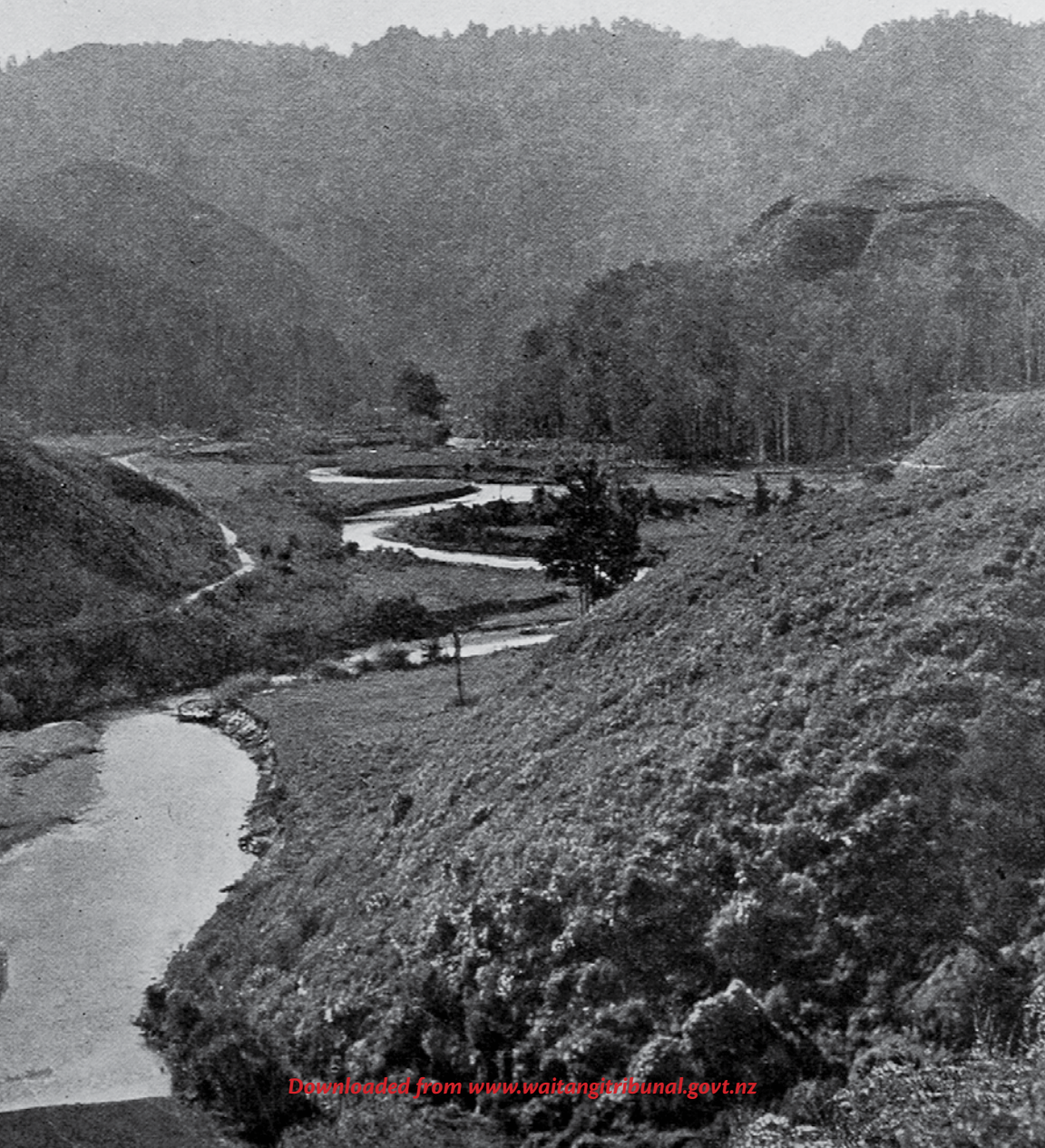
129. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 348

130. Nikora, 'Urewera Consolidation Scheme' (doc E7), tbl A

131. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 819



The Whirinaki River and valley, 1908. This forested area contained some of the most valuable timber in the entire reserve, much of which was included in the Crown award under the Urewera Consolidation Scheme. The Te Whaiti owners suffered a major loss of their timber resource and the opportunity to sell timber-cutting rights. The impact on their economic development was long term.



15.3.7.2 Forest losses at Waikaremoana

The other location where UCS block owners were to a large degree excluded from much of the adjacent forest was along the Waikaremoana lakeshore. By 1925, as we have seen, Ngati Ruapani's expectations of receiving land south of the lake in return for the sale of their interests in the Waikaremoana block had been disappointed. After they rejected the Tapper's farm transaction as being far too expensive, and found themselves without the land they had hoped for on the southern side of the lake, they attempted to increase the size of the reserves on the northern side, to augment the debentures that were now to be their sole recompense by the Crown. They sought areas encompassing some 3,220 acres, of which 2,625 acres was forest. The commissioners, as we have seen, deemed this acreage to be unreasonable, since the parties had agreed in 1923 that the owners would accept 607 acres (to include their cultivations), while the Crown would pay them for the whole block including the reserves. In effect, the owners would be paid for 607 areas, which they were to keep.

Ngati Ruapani attempts to secure more land in the Waikaremoana block were thus unsuccessful. The area under forest that they secured across all the reserves remained at just 215 acres, 150 of which were included in Te Puna, and 50 in Hopuaruahine East. The Mokau reserve, which Ruapani had hoped to increase to 300 acres, and contained the pua manu, remained at 30 acres; no bush was included in the 30 acres, and the same was true of two other reserves which the people had hoped would be enlarged. Overall, they were granted less than 10 per cent of the forest they had hoped for.¹³² Evidently the Crown was nervous about the threat to the lake's potential as a scenic asset and for hydroelectric power generation if the surrounding hill slopes were cleared of bush. DH Guthrie, Minister of Lands, had told UDNR owners at the Ruatoki meeting in May 1921 that it was 'absolutely necessary . . . that we should preserve the bush . . . If we allow the whole of the bush around the Lake to be felled . . . the level of the Lake will fall.'¹³³ The Crown thus retained the greater part of the forest in and adjacent to the Ngati Ruapani reserves. And Ngati Ruapani were prejudiced by the Crown's refusal to provide them with something approaching an economic base – that is, a greater area of land for their communities, and more forest which might have served them in various ways, including the provision of traditional foods.

15.3.7.3 Forest losses elsewhere in the Reserve

In the remainder of the southern Reserve blocks, the Crown secured less of the forest. Tuhoe block owners in the consolidation scheme retained much of their land in the northern Ruatahuna and southern Tarapounamu-Matawhero blocks, which

132. Urewera commission, minute book 2A, 22 February 1925 (doc M30), pp 226, 228–229

133. Minutes of Ruatoki meeting, 22 May 1921 (O'Malley, 'Waikaremoana' (doc A50), p84). As O'Malley noted on page 65, a royal commission on forestry had recommended a reserve be made on Waikaremoana on scenic and water conservation grounds in 1913, and this view was subsequently endorsed by the Auckland and Hawke's Bay Scenic Preservation Boards.

together contained (according to the 1950s assessment referred to above) some 230 million super feet growing on 45,000 acres.¹³⁴ These rimu-matai-hardwood forest bands provided the best timber outside Whirinaki State Forest. Between the 1940s and 1970s, parts of most blocks were logged by private millers. But by that time Maori owners faced tight Crown control of logging in the interests of combating erosion and preventing flooding.¹³⁵ To the east, the Maungapohatu consolidation blocks contained about 3,400 acres of forest, although the Crown's proscriptions on milling meant half of this was off-limits to logging operations. Despite the fact that the forest composition was less desirable – that is, it was rimu-tawa forest – it also attracted the attention of commercial millers in the 1950s and 1960s.¹³⁶

Finally, at the eastern edge of the former Reserve were the nearly 38,000 acres of rimu, miro, and beech forest in Manuoha and Paharakeke, which had escaped Crown purchasing and the consolidation scheme. To prevent the immediate logging of part of Manuoha and any future logging of Paharakeke, both were purchased from the incorporations that owned them by the Crown in 1961 for addition to the National Park.¹³⁷

On the remaining UCS blocks (in the Waimana and Whakatane Valleys, at Raroa, in the north and west of Hikurangi-Horomanga, and at Ohaua), together with the Ruatoki block, there were about 40,000 acres of rimu-tawa and tawa forest.¹³⁸ Half of this was in the Whakatane Valley blocks (the Ruatoki series), which were found in 1972 to be carrying a timber volume of 126 million super feet, but only a quarter of the area (5,164 acres) was deemed suitable for logging.¹³⁹ Apart from some milling of timber on forested areas of Ruatoki itself in the 1950s,¹⁴⁰ all

134. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 348

135. For details of this milling, see Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), pp 88–138, 193–200.

136. Apiti, 'Inquiry District Overview Map Book, Part 3' (doc A132), map 27; Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), pp 154–157; Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 229–238

137. Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), pp 176, 184–185; A D McKinnon, Inspector in Charge, New Zealand Forest Service, 'Report on Proposed Purchase by Crown for a National Park, Manuoha and Paharakeke Blocks', 18 May 1961 (Brent Parker, comp, supporting papers to 'Report – in Relation to the Crown Purchase of Manuoha and Paharakeke Blocks', various dates (doc M20(a)), pp 55–57, 59, 62)

138. This is based on an examination of where the bush edge was shown on contemporary maps, and later assessments of forestry potential. In relation to the amount of forest, as opposed to scrub, on the Hikurangi-Horomanga UCS series blocks, see J Canning for Rotorua Conservator of Forests to District Rural Valuer, 25 February 1975 (Brent Parker, supporting papers to 'Compensation for Restrictions Placed on Milling of Native Timber in the Urewera', various dates (doc M27(a)), pp 490–492); for the other UCS series, and Ruatoki, see Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 135, 150, 161, 167, 169.

139. A P Thomson, Director-General of Forests, to Minister of Forests, 8 August 1972 (SKL Campbell, comp, supporting papers to 'Te Urewera National Park 1952–75', 2 vols, various dates (doc A60(b)), vol 2, p 227)

140. Steven Oliver, 'Ruatoki Block Report' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A6), pp 203–208

of this area was left more or less untouched by the timber industry.¹⁴¹ All of the similarly composed forest in the surrounding Crown award was included in the National Park.

15.3.7.4 Conclusion – forest losses

Reserve owners lost three-quarters of their forest asset to the Crown under the consolidation scheme. The owners of the Te Whaiti blocks were the only owners whose timber was valued separately from the land. In the short term, Ngati Whare were unable – after the Crown failed to follow through procedures at its end – to finalise a deal with a commercial sawmiller which it seems would have earned them considerably more in the short term than the prices the Crown paid. In the longer term the retention of the land itself would have allowed them to benefit from development opportunities arising from the planting of exotic forests.

The owners of all the other Reserve blocks who sold shares received no additional payment for this potential future asset because their timber was not given any value in the 1910s. In the longer term, owners who did retain their shares were ultimately able to enter into milling arrangements some 40 years later, when milling became economic for private companies. Not all block owners were so fortunate; some were unable to mill because of Government restrictions.

The Crown milled the valuable Te Whaiti forest that it secured through purchase and the consolidation scheme, which was incorporated into Whirinaki State Forest. Forest on the rest of the block which the Crown acquired through the consolidation scheme was preserved, after officials eventually determined that its greater value lay in the provision of what might today be termed ‘environmental services’ (the regulation of soil erosion, weed growth, and water flow) to the Whakatane and Waikaremoana catchments, downstream from the Reserve lands, and to a lesser extent in its use as a tourist destination. The land was no less valuable to the Crown as a conservation forest, which meant that it had no less exchange value (had a fair and proper transaction been made) for its Maori owners. That was shown quite conclusively in the Crown’s purchase of Manuoha and Paharakeke blocks in 1961, which we will discuss in a later chapter. Through their effective donation of all this timber to the Crown, Reserve owners and owners of UCS blocks made a substantial, unacknowledged contribution to the public good.

The peoples of Te Urewera lost a vast indigenous timber resource for which they were paid nothing (with the exception of the Te Whaiti owners, who were underpaid). Not only was much of this resource millable, but forest clearance could have been followed by the development of exotic forestry and some pastoral farming. All of these opportunities were foreclosed by the massive loss of land in the Reserve through Crown purchases and the land secured by the Crown during the course of the consolidation scheme. In cold hard economic terms, therefore,

141. Brad Coombes, ‘Preserving a “Great National Playing Area” – Conservation Conflicts and Contradictions in Te Urewera, 1954–2003’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), pp 32–37

regardless of whether milling was in the best interests of the environment, the peoples of Te Urewera suffered very significant prejudice in the loss of so much land and forest.

15.3.8 Impact of loss of farming lands

The effects of Crown purchasing and the consolidation scheme on the collective farming potential of block owners were not as great as those on their forest resources. Given the mountainous nature of much of the terrain, and the instability of much of the hill slope soils, the opportunity for land development across the greater part of the consolidation scheme lands was always open to doubt.

Ngati Whare and Ngati Manawa owners at Te Whaiti would nevertheless lose heavily, as three-quarters of the area of open land between Te Whaiti and Minginui ended up in the Crown award. At Waikaremoana, Ngati Ruapani would be confined to very small reserves north and south of the lake. Tuhoe retained most of the Ruatoki lands – the best arable lands that they had left after the Raupatu losses – though for that very reason the land came under great pressure. But in the rest of the Reserve, where their farming was at the margins, the loss of surrounding lands through purchase – plus the additional land which Tuhoe owners made over to the Crown to pay the cost of surveys and arterial roads – would bring its own difficulties. And farm operations that were under way would be severely compromised by the Crown's failure to build the promised arterial roads, or to ensure that small sections that were built were maintained.

15.3.8.1 The farm lands of Te Urewera

Much of the area covered by the consolidation scheme within the former Reserve was rough hill country under forest – though there were areas of several thousand acres of level or undulating land at Te Whaiti, Ruatahuna, and Maungapohatu, together with smaller areas of river flats along the Whakatane and Waimana River Valleys. As described below, these cleared areas had long been cultivated, and more recently used for pastoral farming by the owners, though with mixed results.

Within the Reserve, the remaining quality lands for farming were at Ruatoki, between the Raupatu line and the head of the valley to the south. More than 4,000 acres of fertile river flats straddled the Whakatane River, which was suited to both cropping and pastoral farming, together with another 6,000 acres of land which was suitable for the immediate grazing of livestock. After 1900, there had been a shift from sheep farming to dairying, stimulated by the establishment of a dairy factory in Taneatua in 1900, then a cheese factory at Ruatoki itself in 1908.¹⁴² Dairying suited the needs of Maori development, because it required smaller farms than rearing sheep, but more year-round labour for the same area of land. And there was considerable success at Ruatoki initially; within a year of the factory opening there were more than 40 local suppliers,¹⁴³ and by 1917 Judge Browne was able to observe in his census enumerator's report that Ruatoki's farmers were

142. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 489–490

143. Berghan, 'Block Research Narratives' (doc A86), p 199



Unknown (Whakatane District Museum and Gallery, 8377)

The Ruatoki dairy factory, rebuilt in 1928. The factory had opened in 1908, when dairy farming among Tuhoe landowners in the Ruatoki Valley area was expanding. The fertile flats straddling the Whakatane River were some of the few quality lands that Tuhoe still retained in the early twentieth century.

‘large suppliers of milk’, with many owning their own horses and drays and taking contracts. He also noted that they had of late increased their already large supply of maize very considerably.¹⁴⁴ But the pressures on ‘the only good agricultural land possessed by the Tuhoe tribe’¹⁴⁵ continually increased. Competition among owners led to repeated partitioning during the early decades of the twentieth century, as owner groups sought to demarcate areas they could farm themselves.¹⁴⁶ By the time of the consolidation scheme, much of the river flats had been broken into farmlets which were only 20 to 30 acres in size.¹⁴⁷

Outside Ruatoki, there were around 5,000 acres of high to medium-fertility arable land at Waimana, and another 5,000 acres of similar land on the Rangitaiki

144. Judge Browne, no date, AJHR, 1917, H-39A, p 3 (Campbell, ‘Land Alienation, Consolidation and Development’ (doc A55), p 111)

145. Best to Native Under-Secretary, 27 November 1903 (Berghan, ‘Block Research Narratives’ (doc A86), p 197)

146. Oliver, ‘Ruatoki’ (doc A6), p 112; Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 134–136

147. ‘Extending Prohibition of Alienation of Certain Native Land’, 8 December 1927, *New Zealand Gazette*, 1927, no 84, p 3621 (SKL Campbell, comp, supporting papers to ‘Land Alienation, Consolidation and Development in the Urewera, 1912–1950’, 3 vols, various dates (doc A55(a)), vol 1, pp 39–40)

plain, split between northern Waiohau 1 and northern Whirinaki. From 1915, however, small areas of Waimana land (which was also subject to repeated partitioning) began to be sold off to neighbouring Pakeha farmers, so that by the 1930s the area of land retained by Maori at Waimana was down to 4,100 acres (see chapter 10). And the remainder of the rim block lands, like much of the Reserve, was composed almost entirely of rough hill country under forest, which for reasons of climate, isolation, drainage, and slope stability would have had limited value for farming even if it had been cleared.

Crown expectations of pastoral farming in Te Urewera were finally recognised as unrealistic and, as we have seen, were scaled back from some 370,000 acres of farm land in 1915 to 50,000 acres in 1923. For this (and for the Te Whaiti forests) the Crown had purchased the equivalent of approximately 345,000 acres.¹⁴⁸ Officials who revised Crown estimates at the time included Skeet, the commissioner of Crown lands. They stated that only 'a few thousand acres' in the river flats were fit for dairying, while for 'pastoral purposes considerable areas would carry grass for periods up to 10 years'; these could only be 'classed as inferior second class land'.¹⁴⁹ And the more modern system of land capability classification (derived from work done initially by the Ministry of Works in the 1960s), deemed most of the former Reserve to be 'non-arable land' with either moderate or severe 'limitations to use under perennial vegetation such as pasture or forest', while some land had such severe limitations that it was simply not suitable for cropping, pasture, or forestry.¹⁵⁰

But for the peoples of Te Urewera, the loss of this vast extent of land – in purely economic terms – made its impact on the viability of farming that they had embarked on in their own long-established communities. For them, what was at stake was the economic survival of communities which – as a result of the cumulative loss of farm lands and other resources – were increasingly pushed to the brink. They were not seeking large profitable enterprises, but to be good farmers on ancestral lands, with an income that was adequate to secure basic commodities for their whanau and their contribution to the wider community.

The impact of Crown purchasing on local farming operations therefore was keenly felt. This is evident in the details of Maori farming that we know of. It was small scale, and confined to particular areas. At the start of the consolidation process, areas within the Reserve that could be developed were, to a greater or lesser extent, already being utilised by their Maori owners (see table 15.1). The Rotorua Conservator of Forests, H A Goudie, made just this point in a 1921 report, when he commented that most of the cultivable land was already occupied by kainga and cultivations, as a result of which he anticipated that the Crown would not gain much of this in its award.¹⁵¹ But this is not to say that no new land would be cleared

148. Philip Cleaver, 'Urewera Roding' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A25), p 76

149. HM Skeet, GT Murray, and WC Roberts to Under-Secretary for Lands, 15 March 1923 (Berghan, 'Block Research Narratives' (doc A86), p 548)

150. Apiti, 'Inquiry District Overview Map Book, Part 3' (doc A132), map 25

151. Bassett and Kay, 'Ruatahuna' (doc A20), p 176

for farming subsequently; it is clear from the evidence before us that in suitable areas whanau did exactly that in later years.

In the northern half of the area covered by the consolidation scheme (that is, the northern UDNR except for Ruatoki, Whaitiripapa, and Tapatahi) the main areas of cultivation were strung out along the Whakatane and Waimana River valleys. None of the Whakatane River valleys ended up in the Crown award, although it did acquire 90 acres of alluvial flats between Hanamahihi and Ohau.¹⁵² In the Waimana River valley, the Crown acquisitions seem to have been more significant – they included both Taurawharonā and Ureroa, for example, which were two of the locations owners had wanted reserved from sale when offers were first made to sell land in the valley in 1910.¹⁵³

In the southern part of the Reserve, the two main centres of cultivation were at Ruatahuna and Maungapohatu. We know, from a number of sources, the extent of cultivated land at Ruatahuna. At Ohau, near Ruatahuna to the north, the valley land was also being farmed. Speaking of this area in 1921, Goudie observed that ‘the Natives have succeeded in getting quite a good sward of Cocksfoot and other grasses and I understand that the saving of the Cocksfoot seed is quite an industry with them.’¹⁵⁴ By 1919, the Ruatahuna owners had 1,300 acres cleared and sown in pasture for the purposes of feeding both sheep and cattle,¹⁵⁵ while there were also numerous whanau cultivations scattered around the district, which were chiefly used for growing potatoes.¹⁵⁶

Maungapohatu had an even larger area of cleared land than Ruatahuna, even though, according to the land use capability classification, its best land was non-arable, with moderate limitations for use under forest or pasture.¹⁵⁷ The geologists HA Gordon and A McKay had observed large areas under sown grass together with groves of fruit trees when passing through Maungapohatu in the mid-1890s,¹⁵⁸ and this developmental work was built on by Rua and his followers when they moved there in 1907. By early 1908, a further 730 acres of grass had been sown in the area around Toreatai, and a further 290 acres prepared.¹⁵⁹ In the same year, another geologist, Dr JM Bell, recorded ‘fields of ripening corn, orchards of plum

152. Urewera commission, minute book 2A, 5 March 1924 (doc M30), p 82

153. Edwards, ‘The Urewera District Native Reserve Act 1896, Part 3’ (doc D7(b)), p 115; Binney, ‘Encircled Lands, Part 2’ (doc A15), map 22, p 429

154. HA Goudie, Conservator of Forests, ‘Report upon the Uriwera Country’, 21 September 1921 (Berghan, ‘Block Research Narratives’ (doc A86(j)), p 3412)

155. This was despite the fact that a later map of land use capability classifications shows that the area at Ruatahuna with moderate limitations for arable use was only in the order of 1,000 acres: see Bassett and Kay, ‘Ruatahuna’ (doc A20), pp 114–115; Berghan, ‘Block Research Narratives’ (doc A86), p 177; Apiti, ‘Inquiry District Overview Map Book, Part 3’ (doc A132), map 25.

156. Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), pp 84, 231–232, 273, 293; Bassett and Kay, ‘Ruatahuna’ (doc A20), p 106; Miriama Howden, brief of evidence, 11 May 2005 (doc D26), p 3

157. Apiti, ‘Inquiry District Overview Map Book, Part 3’ (doc A132), map 25

158. Murton, ‘The Crown and the Peoples of Te Urewera’ (doc H12), pp 256–257

159. *Ibid.*, p 515

and apple, growing potato crops, and sheep, cattle and horses' at Maungapohatu.¹⁶⁰ Eventually, some 2,000 acres were laid down in pasture, but the pastoral farming ambitions of Rua's community were put paid to when, following the police expedition and arrest of Rua in 1916 (and the court cases which ensued), they sold their flock of 357 sheep and an unknown number (perhaps in the hundreds) of cattle.¹⁶¹

Maori owners retained most of the cultivable land at Ruatahuna after the consolidation scheme; the only cultivable land awarded to the Crown seems to have been the 60-acre township reserve.¹⁶² Officials noted the potential of land for further development there – the valuer JH Burch, for example, described the partitions Arohana and Kahui (Ruatahuna 1 and 2) as 'good easy country' and 'good quality easy country' respectively in 1919¹⁶³ – but Knight recorded in 1921 that the Crown purchasing efforts could not prise them out of their owners' hands. As a result the owners retained the benefit of these lands; Te Whenuanui observed in 1928, when advocating the establishment of a dairy factory, that there were 6,000 acres fit for dairying at Ruatahuna. Three years later, the Crown initiated the Ruatahuna Development Scheme, the only Maori land development scheme to be tried within the area encompassed by the UCS. Maungapohatu also seems to have escaped losing any areas of cultivable land to the Crown, but for reasons of deteriorating access (discussed in greater detail below), the community was unable to sustain itself, and it slowly faded away.

There were less extensive cultivated areas at Te Whaiti, along the road between Te Whaiti and Ruatahuna, and around the northern shore of Lake Waikaremoana. On the face of it, Te Whaiti had the most farming potential – indeed more potential than Ruatahuna or Maungapohatu – with around 15,000 acres of land lying along the Whirinaki Valley to the south-west of the Te Whaiti settlement having only 'moderate limitations for arable use'. Furthermore, about two-thirds of this area was already open grass and fernland.¹⁶⁴ Te Whaiti owners had introduced sheep to the valley in 1884, and around 400 sheep had been depastured at Te Whaiti by 1900;¹⁶⁵ but 'bush sickness' (a condition where animals became anaemic and malnourished, caused by a cobalt deficiency in the soil) largely put an end to sheep farming.¹⁶⁶ The Te Whaiti community used their open land instead as grazing for horses and limited numbers of cattle (which, as Hutton and Neumann note, did not seem to suffer so badly from 'bush sickness' when they foraged in the

160. Binney, 'Encircled Lands, Part 2' (doc A15), p 379

161. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 515–516

162. Urewera commission, minute book 1, 5 July 1923 (doc M29), p 372

163. District valuer, 'Valuation form' (Bassett and Kay, 'Ruatahuna' (doc A20), pp 114–115)

164. Apiti, 'Inquiry District Overview Map Book, Part 3' (doc A132), map 25

165. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 270; Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 79

166. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), p 177. 'Bush sickness' was characterised by 'a general wasting or ill thrift, impaired appetite, anaemia, loss of weight, and death': see IE Coop, *The Principles and Practice of Animal Nutrition* (Wellington: Government Printer, 1949, revised ed, 1961), p 34.

Area	Grassed or cleared area (plus cultivated area where stated)	Notes
Ruatoki ^{1, 2, 3}	(1930) 2,000 acres in sown pasture or cultivation, plus approximately 12,000 acres in rough grass or fernland	Included 20 acres in sown pasture offered for lease
Oputea ²	Unknown area in sown pasture or cultivation	Did not include clearings at Hanamahihi, Te Honoi, Waikohu Stream
Whakatane Valley ³	750 acres in sown pasture or in cultivation	
Lower Waikare Valley ⁴	120 acres in rough grass	
Ohau ⁵	(1937) 150 acres cleared for pasture	
Ruatahuna ⁶	1,300 acres in sown pasture; (1931) 3,000 acres cleared	
Te Whaiti–Ruatahuna road (Tarapounamu) ⁷	Approximately 750 acres cleared for pasture	Included 270–300 acres at Ngaputahi, 200 acres at Wilson's clearing (Umukahawai)
Raroa ⁸	Approximately 150 acres cleared	
Wairama (Tauranga) Valley ⁹	(1929) 500 acres in sown pasture, and 24 acres in maize	Did not include areas of grassed or cultivated land alienated (for example, around Tauwharemanuka)

Maungapohatu¹⁰

2,000 acres in sown pasture

Te Whaiti¹¹

Approximately 10,000 acres in rough grass or fernland

Waikaremoana¹²

360 acres in sown pasture or cultivation, plus 140 acres in fernland

1. David Alexander, 'The Land Development Schemes of the Urewera Inquiry District' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A74), p 13. Approximate rough grass/fernland area determined by subtracting forested area marked on contemporary maps (see maps in Stokes, et al. *Te Urewera* (doc A11), p 135)
2. Berghan, 'Block Research Narratives of the Urewera' (doc A86), pp 20–21. The commissioners were 'surprised' by the extent of the growth of grasses at Oputea. Urewera commission, minute book 1, 27 February 1923 (doc M29), p 282. It seems reasonable to assume that all of this grassed and cultivated area would have been encompassed by the 566 acres described as 'light scrub' when the Oputea block's forestry potential was investigated in 1975 (J Canning to District Rural Valuer, 25 February 1975 (Parker, supporting papers to 'Compensation for Restrictions Placed on Milling of Native Timber in the Urewera' (doc M27(a)), p 492).
3. J McKinlay to chief surveyor, 8 July 1921 (Bruce Stirling, comp. supporting papers to 'Te Urewera Valuation Issues' various dates (doc L17(b)), pp 58–73); J McKinlay, 'Urewera Native Reserve Road', 18 June 1921 (Berghan, comp. supporting papers to 'Block Research Narratives of the Urewera', various dates (doc A86(h)), pp 2606a-2606g)
4. J McKinlay to chief surveyor, 8 July 1921 (Stirling, supporting papers to 'Te Urewera Valuation Issues' (doc L17(b)), p 73)
5. Tuawhenua Research Team, 'Ruatahuna' (doc D2), p 292. A 1921 account refers to this area 'North of the Ruatahuna' 'producing a good sward of cocksfoot: see H A Goudie, Conservator of Forests, 'Report Upon the Urewera Country', 21 September 1921 (Berghan, supporting papers to 'Block Research Narratives' (doc A86(i)), p 3412).
6. Tuawhenua Research Team, 'Ruatahuna' (doc D2), p 145; Bassett and Kay, 'Ruatahuna: Land Ownership and Administration' (doc A20), pp 224–226
7. L J Poff to chief surveyor, 18 July 1921 (Stirling, supporting papers to 'Te Urewera Valuation Issues' (doc L17(b)), pp 77–78); Copy of report by Mr Munro, 1921 (Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 492); Urewera commission, minute book 1, 17 February 1923 (doc M29), p 258
8. Approximate rough grass or fernland area determined by subtracting forested area marked on contemporary maps (see map in Stokes et al. *Te Urewera* (doc A11), p 167).
9. Cleaver, 'Urewera Road' (doc A25), p 94. In relation to the improved areas acquired by the Crown at Tauwharemanuka, see the valuations of Section 1, Block VIII, and Section 1, Block XII, Urewera SD (Stirling, supporting papers to 'Te Urewera Valuation Issues' (doc L17(b)), pp 101, 106).
10. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 515
11. H A Goudie, Conservator of Forests, 'Report on the Urewera Country', 2 September 1921, p 5 (Berghan, supporting papers to 'Block Research Narratives' (doc A86(i)), p 3411)
12. Urewera commission, minute book 2A, 22 February 1925 (doc M30), p 226

Table 15-1: Reserve areas being farmed at the time of the Urewera Consolidation Scheme

bush),¹⁶⁷ as well as growing potatoes, maize, and a variety of other vegetable and fruit crops. As the frosts of 1898, 1900, and 1915, and the potato blight of 1905–07 showed, these could nevertheless be badly affected by adverse weather events and diseases.¹⁶⁸

The remaining clearings along the road between Te Whaiti and Ruatahuna, and on the Waikaremoana lakeshore, together accounted for about another 1,000 acres of cultivated land (see table 15.1). The Waikaremoana lakeshore clearings, in contrast, were used for grazing stock: a 1919 petition by Te Amo Kokouri, opposing the proposed Crown purchase of interests in the Waikaremoana block, observed that sheep and cattle were on the land.¹⁶⁹ In 1925, when Ngati Ruapani suggested larger reserves in the block, 360 acres were described as being in cultivation or sown grass, and another 235 in second growth or fern.¹⁷⁰

The cultivable lands at Te Whaiti, the clearings between Te Whaiti and Ruatahuna, and the lakeshore cultivations at Waikaremoana had contrasting fates when the Crown secured its award in the UCS. The 600 or so acres of reserves for Ngati Ruapani at Waikaremoana seem to have included all their cultivated lands, but (as described above) little else. Along the road between Te Whaiti and Ruatahuna, Maori owners seem to have retained almost all of the cleared land, with the exception of some at Ngaputahi and Taurawharona.

15.3.8.2 *The impact of loss of farm land on Te Whaiti owners*

In terms of future farming potential, the Maori owners at Te Whaiti perhaps lost most heavily. Three-quarters of the area of open land between Te Whaiti and Minginui were to end up in the Crown award. It is true that this land had initially been held in poor regard, having been valued at five and six shillings per acre when the Te Whaiti block was valued (first as a single block, and then separately as Te Whaiti 1 and 2).¹⁷¹ Goudie had commented that Te Whaiti must have ‘extremely low value as grass country’, as he noticed during his 1921 inspection of the area that there was little to be found among the 10,000 acres of open bracken-covered land there,¹⁷² and similarly Munro (an Agricultural Department official who accompanied Goudie) had remarked that even the best of the open country at Te Whaiti would be ‘very difficult and expensive to bring into profitable pasture.’¹⁷³

167. Hutton and Neumann, ‘Ngati Whare and the Crown’ (doc A28), p177 fn 414

168. Ibid, pp 130, 150–151, 204, 256, 410–413

169. Berghan, ‘Block Research Narratives’ (doc A86), pp 371–372

170. Urewera commission, minute book 2A, 22 February 1925 (doc M30), p 226

171. Bruce Stirling, ‘Te Urewera Valuation Issues’ (commissioned research report, Taneatua: Tuhoe-Waikaremoana Maori Trust Board, 2005) (doc L17), pp 127–128; Hutton and Neumann, ‘Ngati Whare and the Crown’ (doc A28), p 201; F W Flanagan, Valuer-General, to Native Under-Secretary, 23 August 1915, enclosure to T W Fisher to W H Bowler, Native Land Purchase Officer, 2 September 1915 (Edwards, supporting papers to ‘The Urewera District Native Reserve Act 1896, Part 3’ (doc D7(b) (i)), pp 1317–1318)

172. H A Goudie, Conservator of Forests, ‘Report upon the Uriwera Country’, 21 September 1921 (Berghan, supporting papers to ‘Block Research Narratives’ (doc A86(j)), pp 3411–3412)

173. Copy of report by Mr Munro, 1921 (Berghan, supporting papers to ‘Block Research Narratives’ (doc A86(j)), p 3428)

At the same time, Ngati Manawa received only about 900 acres of this land in the Minginui block, and about 500 acres of unforested hill country in the Tawa-a-Tionga and Ponaua blocks,¹⁷⁴ and Ngati Whare only about 1,500 acres divided between several blocks, the largest of which was the 293-acre Tauwharekopua block. There were probably another 1,000 acres or so of open land around the base of forest-covered hill blocks such as Kaitangikaka and Te Whaiti Residue, but such areas could not have been combined easily into a modern farm.¹⁷⁵ As it turned out, only one Crown section offered for sale (cheaply) in 1924 was taken up (leased by the local postmaster and policeman, HM Macpherson); part of another became the site of the Presbyterian Maori Boys' Farm in the mid-1930s.¹⁷⁶

But in the 1930s it was discovered that cobalt deficiency (the cause of 'bush sickness') could be treated with stock supplements or cobaltised fertilizers – and at that point the land became more valuable. If Ngati Whare and Ngati Manawa had retained it, they would have been able to expand farming operations.¹⁷⁷ We add that the unsold areas of Crown land would later be proposed for inclusion both in compensation packages for Tuhoe – once the Crown imposed restrictions on timber milling – and in Te Whaiti land development schemes.¹⁷⁸

15.3.8.3 *The impact on Tuhoe of land loss and the Crown's failure to provide promised arterial roads*

For Tuhoe, the impact of Crown purchasing and the Urewera Consolidation Scheme was also significant – even though they may not have lost extensive tracts of farm land. Above all, the failure to build the arterial roads to service farming blocks, which people took up *because* of the promised roads, would leave them high and dry.

174. All but the southern end of the Minginui block was free from forest: see Crown Law Office, comp, 'Te Urewera Maps Including Te Whaiti, Tarapounamu, Ohaua, Maungapohatu, and Ruatahuna Series Consolidation Blocks', various dates (doc M12(b)). The western half of Ponaua and the northern half of Tawa-a-Tionga similarly lacked forest cover: see 'Ngati Whare Map Book for Treaty of Waitangi Claim Wai 66' (doc G33), maps 11E, 11F; Urewera commission, minute book 1, 3 to 4 May 1922, 4 to 5 July 1922 (doc M29), pp 99–101, 371; Nikora, 'Urewera Consolidation Scheme' (doc E7), tbl D.

175. The blocks Tauwharekopua to Waikotikoti on one side of the river, and from Te Tuturi to Te Tawhitiwhiti on the other, had an area of just under 1,300 acres; the western end of Te Waireporepo would have provided Ngati Whare with perhaps another 200 acres of level or rolling open land: see 'Ngati Whare Map Book for Treaty of Waitangi Claim Wai 66' (doc G33), maps 11B, 11C.

176. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 419–420, 473; Peter Clayworth, 'The Te Pahou Blocks: A Report on the Wai 725 Claim' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A19), p 35

177. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 79, 177. Interestingly, Judge Harvey observed in 1944 that cobalt was needed to keep stock in good health on the Presbyterian Maori Boys' Farm at Te Whaiti: Judge Harvey to Under-Secretary, Native Department, 13 July 1944 (John Hutton and Klaus Neumann, comps, supporting papers to 'Ngati Whare and the Crown, 1880–1999', 2 vols, various dates (doc A28(a)), vol 2, p 69).

178. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 424–427, 530; Campbell, 'Te Urewera National Park' (doc A60), p 68; Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 591–594

Most farming land in the steeper parts of Te Urewera was second- or third-class land. And as we have seen, farmable land was confined to particular areas. The figures for cleared land from the available reports underline both the serious impact of earlier losses of high quality farm land (particularly in the Raupatu and the rim blocks) and the importance of ensuring by the 1920s that communities' economic capability was preserved. One of the key benefits of the traditional Tuhoe economy (as Murton observed) was resource security, because communities could draw on diverse resources from various places at different times of the year.¹⁷⁹ This was not unlike the kind of investment diversification evident in the broader New Zealand economy, in which individuals could either obtain credit, draw on savings, or sell assets, in order to tide themselves over during periods when their income was not meeting their expenses. The Crown's decision to restrict Maori owners participating in the consolidation scheme to just a few locations, and to the smaller blocks that were favoured at the time, would highlight the problems of resource insecurity. In an example of a commissioners' decision that was unhelpful in terms of established arrangements to maximise labour and use of resources, land at Te Waiiti was divided into four blocks, plus a papakainga, even though the commissioners recognised after their site visit that 'the clearings and cultivations are of a communal nature and not the work of any particular family'.¹⁸⁰ Stokes, Milroy, and Melbourne cited Te Waiiti as an example of arbitrary decisions on block boundaries made by the commission, whereby it had allocated 'ownership' of pieces of land which had been formerly subject to flexible overlapping use rights.¹⁸¹

The long-term loss to Tuhoe communities was that of nearby productive lands, which would remove their buffers. They were accustomed to compensating for meagre resources by taking advantage of multiple complementary ones. This can be seen in operation with use by the people of Ruatahuna of the areas of grassed farmland at Ohaua. In 1937, R G Dick, formerly a surveyor in Te Urewera, described Ohaua as having 150 acres 'at present haphazardly used for sheep and cattle grazing'. He was wrong when he asserted that it was 'gradually being abandoned',¹⁸² for he visited in the winter, and what he did not recognise was that Ruatahuna farmers relied, and would continue to rely on, this land for summer grazing. Korotau Tamiana told us that his father's father and others had lived at Ohaua originally, and 'would go back there all the time'. Much of the land had long been developed by the time he was farming there with his father in the 1950s. The Ohaua land was crucial for them:

The farms at Ohaua were a critical support to our farms at Ruatahuna to fatten the stock and rest the land at Ruatahuna. The land at Ruatahuna was not good enough

179. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 113–142

180. Urewera commission, minute book 2A, 24 March 1924 (doc M30), pp 146–147

181. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 182

182. R G Dick to the Under-Secretary for Lands, 20 August 1937 (Stephen Robertson, comp, supporting papers to 'Te Urewera Surveys: Survey Costs and Land Valuations in the Urewera Consolidation Scheme, 1921–22', various dates (doc A120(a)), p 161)

and there was just not enough developed land here for the number of farms. The land and climate at Ohaua was much better for farming.¹⁸³

In the same way, Tuhoe communities were able (as they still are to some extent) to supplement food they could purchase and produce from their own farms and gardens by hunting and harvesting traditional foods in the bush. This had proved especially important during the early 1930s when, at one point, as Kaaho Rurehe and others noted in a petition to Ngata, a short-term food shortage at Ruatahuna was so severe that they faced being reliant on a harvest of tawa and hinau berries to get the community through until summer.¹⁸⁴ Forest foods often remained important. Potato gardens within the forest were afforded a level of protection against damage by frost, so even when it came to crop production, the presence of accessible forest close to kainga helped increase the resistance of communities to food shortages like those experienced in 1898.¹⁸⁵ Adjacent bush areas also provided cattle with a source of supplementary forage.¹⁸⁶ Wild pigs were often hunted too, even though many people kept domestic pigs.¹⁸⁷ In 1904, it was observed that forest undergrowth was being burnt at both Ruatahuna and Te Whaiti to cultivate productive hunting grounds; wild pigs were attracted to feed on the roots of the young ferns that subsequently established themselves.¹⁸⁸

Tuhoe farmers and their whanau would be more immediately affected however by the Crown's failure to build the roads promised to the people at the start of the consolidation scheme, and to ensure maintenance of the limited stretches that were built. Its failure to provide permanent access to blocks in the Whakatane and Waimana Valleys created a lasting sense of loss and injustice among Tuhoe. As counsel for the Wai 36 Tuhoe claimants put it, because of this failure, 'owners were not able to use the land as they had intended – homes could not be built, timber could not be milled, land could not be developed'; in addition, the lack of roads 'isolated Tuhoe communities from commercial markets'.¹⁸⁹ Counsel for Tuhoe Tuawhenua observed that the Crown ignored requests to build the promised roads even though 'Tuhoe were suffering economic loss by the absence of the adequate roading'.¹⁹⁰ Crown counsel acknowledged that the Crown failed to construct the two arterial roads (up the Whakatane River and Waimana–Tauranga River valleys),¹⁹¹ and accepted that the absence of the arterial roads limited farm development, altered the pattern of settlement, and restricted access to services.

183. Korotau Tamiana, brief of evidence, 10 May 2004 (doc D20), pp 3–4

184. David Alexander, 'The Land Development Schemes of the Urewera Inquiry District' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A74), pp 253–254

185. Murton, 'The Crown and the Peoples' (doc H12), p 306

186. Urewera commission, minute book 2A, 21 February 1925 (doc M30), p 220; Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 177, 414

187. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 233

188. *Ibid*, p 232

189. Counsel for Wai 36 Tuhoe, closing submissions (doc N8(a)), pp 138–139, 217

190. Counsel for Tuawhenua, second amended statement of claim, 30 September 2004 (paper 1.2.12(b)), p 199

191. Crown counsel, closing submissions (doc N20), topics 18–26, pp 96, 98

The Crown's abandonment of the roads impacted in different ways on Maori landowners, depending on where they lived and worked. The vast majority of Whakatane Valley lands were left without any roads or tracks passing by them, so that owners were left to cope with what amounted to a pre-UCS standard of access. The owners of Waimana series blocks between Waimana and Tawhana were for a time provided with road access, but it proved only temporary, given the lack of maintenance. The Maungapohatu landowners further up the Waimana Valley saw a first stage in construction (the six-foot track) but never anything more. The poor quality and lack of roads had severe consequences for Tuhoe communities, who had to work doubly hard to make productive use of their isolated lands. Upon visiting Matahi, the main village between Waimana and Tawhana, in 1935, Galvin and Dun observed that 'as elsewhere, the Natives are in poor circumstances . . . they are, however, using their limited areas of workable land to the best of their ability'.¹⁹²

Dairy farmers were severely affected. They had made a determined beginning. The District Engineer remarked in 1929 that around 1,000 acres in the Waimana Valley were suitable for dairying; already there were 181 cows being milked, with 500 acres being under grass and 24 acres in maize.¹⁹³ In 1949, there were 1,400 acres of cleared land in the valley, although by then some 450 acres had reverted.¹⁹⁴ In 1936, according to Galvin and Shepherd's report for Lands and Survey, between 400 and 500 cows were being grazed on the Waimana blocks, including 259 milking cows split between 15 suppliers on the Maori-owned blocks and 42 on two leased Crown sections.¹⁹⁵ This was just 10 years on from the opening of the Matahi road bridge which had allowed block owners along the valley to start supplying cream to the Opotiki dairy factory.¹⁹⁶

Further up the line of the promised Waimana Valley road, Rua Kenana had persuaded his followers to rebuild their community at Maungapohatu in 1927, and as Binney related, it was a flourishing community of around 150 people for the next two years.¹⁹⁷ Rua and his followers had established 2,000 acres of good grass by 1916, but after the police expedition and the sale of livestock to pay for court trials, their grazing lands deteriorated and became infested by ragwort. The latter infestation led in turn to many cattle deaths when they were first reintroduced in the late 1920s.¹⁹⁸

192. Galvin and Dun to Conservator of Forests, 29 April 1935 (SKL Campbell, comp, supporting papers to 'Te Urewera National Park 1952-75', 2 vols, various dates (doc A60(a)), vol 1, p 33)

193. Cleaver, 'Urewera Roading' (doc A25), p 94

194. Under-Secretary for Maori Affairs to Commissioner of Works, 30 June 1949 (Cleaver, 'Urewera Roading' (doc A25), p 96)

195. Jeffrey Sissons, *Te Waimana, The Spring of Mana: Tuhoe History and the Colonial Encounter* (Dunedin: University of Otago Press, 1991) (doc B23), p 274

196. Sissons, *Te Waimana* (doc B23), pp 270, 273

197. *Ibid*, p 272; Judith Binney, 'Maungapohatu Revisited, or: How the Government Underdeveloped a Maori Community', *Journal of the Polynesian Society*, 1983, vol 92, no 3 (doc A128), p 361

198. Binney, 'Maungapohatu Revisited' (doc A128), p 365

Unknown (ATL, F6608-1/2)



Horse track between Maungapohatu and Ruatahuna. In the early twentieth century, most travel in Te Urewera still took place on tracks such as this one.

The alternative route to the west, the old stock route from Ruatahuna, was in a bad way, being described in a 1927 petition from 139 Ruatahuna and Maungapohatu residents as ‘almost impassable’. While they waited in vain for the road, the community had to rely on the 19 miles of six-foot bridle track between Maungapohatu and Tawhana for bringing in supplies. This required a two-day trip by packhorse to reach Matahi.¹⁹⁹ Land development thus occurred more slowly at Maungapohatu than in the blocks further down the valley. In 1929, CE Bennett of the Public Works Department reported that ‘the Natives are farming their properties in a very small way indeed’; most of the grassland had reverted to scrub, and ‘at present 300 head of cattle are being run and a few acres are under cultivation in maize, etc.’²⁰⁰

But it was inevitable that the Waimana Valley road would deteriorate without maintenance by either the Crown or local government after 1930, progressively reducing the level of access to both Maungapohatu and the blocks between

199. Residents of Ruatahuna and Maungapohatu to Minister of Public Works, 21 June 1927 (Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), p 192); Binney, ‘Maungapohatu Revisited’ (doc A128), p 364

200. Bennett to Minister for Public Works, 29 October 1929 (Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), pp 193–194)



Evening Post (ATL, PACOLL:7796-60)

Unsealed road, Maungapohatu. In 1959, Maungapohatu was still served by only a dirt road and had been more or less abandoned in terms of permanent settlement. The Crown's failure to construct the promised road network or maintain the small sections constructed under the Consolidation Scheme circumscribed the development potential and economic viability of many Te Urewera communities.

Waimana and Tawhana. The people of Maungapohatu had the greatest length of poor quality track to traverse. In 1935, Galvin and Dun found the road to be 'rapidly deteriorating, on account of inadequate maintenance', and the position in Maungapohatu as a result, 'most depressing'.²⁰¹ By 1937, the track from Tawhana was described as being in 'an extremely poor state, being almost completely blocked by slips, windfalls, and washouts over a length of 8 miles'.²⁰² Te Heuheu Wakaunua later wrote that people had started moving away as soon as maintenance had stopped, and by 1936 the population had dropped to 111.²⁰³ In the meantime, the road between Tawhana and Waimana had also suffered, with the Whakatane Chamber of Commerce being moved to write to the Native Under-Secretary in 1935 about the need for urgent repairs, since the state of the road was interfering with deliveries to the dairy factory.²⁰⁴ Ironically, when in 1937 money was approved for remedial work on the track between Maungapohatu and

201. Galvin and Dun to Conservator of Forests, 29 April 1935 (Campbell, supporting papers to 'Te Urewera National Park 1952-75' (doc A60(a)), p 32)

202. R Semple, Minister for Public Works, to Minister of Native Affairs, 2 March 1937 (Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 205-206)

203. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 199, 217-219, 221-222

204. Cleaver, 'Urewera Roading' (doc A25), pp 95-96

Ruatahuna, after the Native Under-Secretary highlighted the Crown's outstanding roading obligations under the consolidation scheme, most of the funds were redirected to repairs on the Tawhana road.²⁰⁵ These did not have a lasting effect though, as by 1940 the cream truck could no longer reach Tawhana, and soon afterwards it was unable to go beyond Whakarae (which was less than half the distance from Waimana to Tawhana).²⁰⁶ By 1942, the road was said to be in 'a dangerous state'.²⁰⁷ Sissons has noted that the owners' situation became so desperate that they offered up most of their lands in exchange for Crown land at Galatea in 1944, but as this area had been set aside by officials for post-war rehabilitation farms, no exchange was considered.²⁰⁸

The struggle of Tuhoe farmers was brought to the Government's attention by influential outsiders as well as by the people themselves. Over the next few years, letters from JS Jessep (the East Coast commissioner) and the Waimana Branch of Federated Farmers informed both the Minister of Public Works and the Prime Minister of the ongoing interruption of cream deliveries,²⁰⁹ while a petition from 42 Matahi residents in 1947 observed that the farms further up the valley had already been abandoned. In 1948, JT Boynton wrote to the Minister of Public Works expressing the sadness of the Eastern Tuhoe Tribal Executive that the land between Matahi and Tawhana was being deserted due to its having been 'virtually cut off'.²¹⁰ Maungapohatu suffered a similar fate, although in its case some officials had gone so far after the Second World War as to advocate that it would be better if the community was evacuated. Judge Browne, as we have seen, put paid to this proposal, which surfaced after the Public Works Department became concerned that it was squandering funds (a mere £100 per annum for three years) on repairs to the old stock route between Maungapohatu and Ruatahuna. This expenditure had been agreed to on condition that local Maori provide unpaid labour each year to the value of approximately one third of the grant. This the Maungapohatu people had agreed to.²¹¹ With only very limited funding being granted for track repairs during the late 1940s, by the early 1950s Maungapohatu had been more or less abandoned in terms of permanent settlement.²¹²

It is true that it cannot be proved that the farms and communities of the Waimana Valley and Maungapohatu would have thrived if roads had been provided. After all, the contemporary evidence on the four development schemes at Ruatoki, Waiohau, Murupara, and Ruatahuna, which all benefited from good road access from the 1930s onwards, shows that these scheme farms also struggled in

205. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 208–214

206. Sissons, *Te Waimana* (doc B23), p 276

207. Secretary, Opotiki Dairy Association, to Minister of Agriculture, 10 April 1942 (Cleaver, 'Urewera Roothing' (doc A25), p 96)

208. Sissons, *Te Waimana* (doc B23), p 276

209. Cleaver, 'Urewera Roothing' (doc A25), p 96

210. Sissons, *Te Waimana* (doc B23), p 276; Boynton to Minister of Public Works, 11 September 1948 (Cleaver, 'Urewera Roothing' (doc A25), p 99)

211. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 217–219

212. *Ibid.*, pp 218–219, 225–227

terms of their financial performance for long periods.²¹³ Murton's view in fact was that 'even with road access, the small size and barely economic nature of the farms [in the Waimana Valley], especially in relation to other work opportunities, might have led to their abandonment anyway.'²¹⁴ We accept that, in the long term, small-scale dairy farming on marginal lands was always going to be problematic.

But when Shepherd and Galvin visited the Waimana series blocks between the Waimana and Tawhana areas in 1936, they remarked that 'With financial assistance and better road access, the carrying capacity of these areas can be considerably increased in addition to which many now unused areas can be brought into production.' They also recommended – unsuccessfully as it turned out – that the request of the Waimana Valley owners to be 'brought into a Native Land Development Scheme', once title, area, and ownership information had been collected, be granted.²¹⁵ This suggested a need for some reorganisation of the farm properties like that which occurred in the other development schemes in Te Urewera. In the case of the Waimana series blocks between Waimana and Tawhana, progress was made up to the mid-1930s, when herd numbers were still increasing. Whether this build-up would have continued, or whether numbers were reaching their limit due to the small farm size and difficult environment, is not clear. The other handicap was a loss of productivity due to the spread of ragwort. Shepherd and Galvin observed that 'Every acre of land cleared of bush immediately becomes a source of ragwort and it is quite evident that the whole of this bush is permeated with this weed.'²¹⁶ But even so, there were solutions. The Tawhana block owner Horopapera Tatu noted that when the ragwort came it had been 'very bad'; but said he had been able to kill it off with 200 lambs.²¹⁷

By the 1940s, the output of the farms was dropping from its earlier peak of 80,000 pounds of butterfat per year; in 1945 it had fallen to 'just about half' of that.²¹⁸ Output had dropped still further by 1949, and the ragwort infestation had prompted a major change in stocking ratios, so there were only 148 dairy cows but 1090 breeding ewes. Butterfat production was recorded as being just over 18,000 pounds, and the Under-Secretary for Maori Affairs doubted it could rise beyond 30,000 pounds in the future, while the breeding ewes were together producing about 30 bales of wool.²¹⁹ Most suppliers were getting fourpence per pound for

213. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 595–599

214. Murton, summary of evidence (doc J10), p 24

215. Shepherd and Galvin to Under-Secretary for Lands, [circa 1936] (Stokes, Milroy, and Melbourne, 'Te Urewera' (doc A111), p 168)

216. Shepherd and Galvin to Under-Secretary for Lands, [circa 1936] (Sissons, *Te Waimana* (doc B23), pp 274–275)

217. Interview with Horopapera Tatu (Sissons, *Te Waimana* (doc B23), p 284)

218. JS Jessep to Minister of Public Works, 23 April 1945 (Cleaver, 'Urewera Roding' (doc A25), p 96)

219. Under-Secretary for Maori Affairs to Commissioner of Works, 30 June 1949 (Cleaver, 'Urewera Roding' (doc A25), pp 96–97)

butterfat, according to Sissons,²²⁰ but presumably if the condition of the farms and road had been improved they would have been able to obtain what Ruatoki Development Scheme farmers were getting in the mid-1930s, that is, about ninepence per pound.²²¹ At this rate, 80,000 pounds of butterfat would have generated a collective income of approximately £3,000, or around £175 per farm – a level of income that would have made the Waimana series farms no more than marginal.²²² Whether these farms could have climbed out of their difficult circumstances, given the gradual spread of ragwort and the small farmable areas within the blocks, is difficult to say. But certainly the deterioration of the road made farming an increasingly uneconomic prospect as time went on.

The farming potential of Maungapohatu, meanwhile, was debated by officials at the time. In his 1929 report to the Public Works Department, C E Bennett had considered that there were 'about 500 acres of land suitable for dairying adjacent to the road, and possibly 3,000 to 4,000 acres of hill country which might be worth settling' at Maungapohatu.²²³ Galvin and Dun had also asserted in 1935 that re-grassing and fencing would enable '800 to 1000 sheep, [together] with the necessary cattle,' to be grazed on 1,000 acres around Maungapohatu,²²⁴ and the following year Shepherd and Galvin similarly concluded that farming might even be profitable with limited Crown assistance.²²⁵ But in the end Maungapohatu was written off. R G Dick argued in his 1937 report on the roading scheme that altitude and isolation made Maungapohatu 'useless as an area for native development', and there were better ways for the Crown to develop Te Urewera than building the proposed arterial roads.²²⁶

As it turned out, a forestry road was constructed through to Maungapohatu from the Rotorua–Waikaremoana highway by the Bayten Timber Company in the early 1960s,²²⁷ allowing the belated resumption of farming operations there. And in the wake of a favourable report regarding its farming potential, the Maungapohatu

220. Sissons, *Te Waimana* (doc B23), p 273

221. The income of the Ruatoki Development Scheme, when divided by the amount of butterfat produced by the Scheme farms, comes out at just under ninepence per pound for the 1934–35 year, and just over ninepence per pound for the 1935–36 year. By 1939/40, the scheme income averaged one shilling three pence per pound: see Alexander, 'Land Development Schemes' (doc A74), pp 92–93.

222. Based on a comparison with Ruatoki unit development farmers; see Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 572–578.

223. Bennett to Minister for Public Works, 29 October 1929 (Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 193–194)

224. Galvin and Dun to Conservator of Forests, 29 April 1935 (Campbell, supporting papers to 'Te Urewera National Park 1952–75' (doc A60(a)), p 33); Campbell, 'Te Urewera National Park' (doc A60), pp 24–25

225. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), p 201

226. Dick had estimated that it would cost £230,000 to build the arterial roads up the Waimana and Whakatane Valleys: see R G Dick to Under-Secretary for Lands, 20 August 1937 (Robertson, supporting papers to 'Te Urewera Surveys' (doc A120(a)), pp 162–163); Cleaver, 'Urewera Roading' (doc A25), pp 103–105.

227. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 229–234

landowners amalgamated most of the lands into a single block in 1962, which the Maungapohatu Incorporation subsequently leased as a sheep and cattle station.²²⁸ Aubrey Tokawhakea Temara told us that the farm has had ‘a very unhappy existence’ and was ‘always going to struggle’ given its location, size, and capital structure.²²⁹ But he also said that the farm had been crippled financially since logging finished in the mid-1970s by its losing battle to maintain the forestry road on its own; the poor state of this road in turn impaired farm performance, since at times it was impossible to bring in materials such as fertilizer or even to transport livestock.²³⁰ It was only in 2000–01 that the Minister of Conservation, Sandra Lee, agreed that the Crown should fund the maintenance of the road, since it was also providing access to parts of the National Park, and the Crown should be responsible for its safety.²³¹

The survival of the farm over such a long period,²³² despite the additional roading burden, lends weight to the contention of Galvin and Dun in 1935 that some form of pastoral farm development at Maungapohatu was viable. It is true that the operation of the lands as a single station, without a permanent population,²³³ suggests that even if the Crown had built the arterial road as promised, a community of the size of Maungapohatu in the 1920s and 1930s could not have been sustained by farming alone. It might, however, have given it a fighting chance.

A further impact arising from the Crown’s failure to build arterial roads, in our view, which is specific to the Maungapohatu blocks, is that once milling rights to their timber were granted in 1959, the owners received a lower royalty for their timber than would otherwise have been the case. As noted above, the timber on these blocks was extracted using an access road built by the Bayten Timber Company, which would not have been necessary had there already been a road. It was estimated by Bayten that construction of their road would cost £20,000, but when the actual cost proved to be around £60,000, the company went back to the Maori Land Court to ask if it could pay a reduced royalty.²³⁴ This later linking of the royalty to the costs of providing road access suggests that, if roads had been

228. Tama Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc G19), pp 36–37; Aubrey Tokawhakea Temara, brief of evidence (doc K15), p 6. The Incorporation had advertised the farm lease over 750 acres, with a further 750 acres suitable for development: RM Velvin to Director-General of Lands, 2 August 1976 (Parker, supporting papers to ‘Compensation for Restrictions Placed on Milling of Native Timber in the Urewera’ (doc M27(a)), p 388).

229. Aubrey Tokawhakea Temara, brief of evidence, 16 February 2005 (doc K15), p 5

230. *Ibid.*, pp 6–7

231. Apart from urgently needed repairs worth \$260,000, it was estimated that maintenance costs would be \$30,000 per annum: see Tama Nikora, brief of evidence in respect of land and ownership issues at Maungapohatu, 16 February 2005 (doc K13), pp 9–10; Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 118; Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), pp 252–253.

232. The Maungapohatu Incorporation was wound up in 1994, and replaced by an Ahuwhenua trust: see Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), p 38.

233. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 162

234. Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), pp 19, 32, 34; Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), pp 229, 238

there in the first place, the royalty originally offered to the Maungapohatu owners would have been even higher.

In the Whakatane Valley, only four miles out of a possible 60 miles of arterial road were ever built.²³⁵ The potential of roads to enhance the development of the blocks in the valley is thus even more difficult to judge. However, the prospect of an arterial road had prompted additional development of the Ohau and Tarapounamu blocks immediately to the north of Ruatahuna.²³⁶

When roads were promised in the consolidation scheme, the Ruatahuna people awaited them with great anticipation, hoping it would facilitate their farm development. Wharekiri Biddle recalled his father Pakitu Wharekiri explaining how he and others had begun catching calves of feral cattle in the Pukareao Valley, bringing them back to Ohau to tame them.²³⁷ They cleared the river flats and lands up the sides of the valley.²³⁸ Te Whenuanui III proposed to Ngata that a dairy factory be established at Ruatahuna. A dairy inspector who visited the district in 1929 reported that there was a great deal of suitable dairying country, and although there was more land which was unsuitable, there would be sufficient land for a 100-ton butter factory. 'Taking the cream out would be impracticable owing to the state of the roads.'²³⁹ But he stopped short of recommending the establishment of a dairy factory at that time because of the threat of ragwort. He did recommend the release of a moth to control the ragwort, but there is no evidence that this suggestion was followed. Ngata, by then Native Minister, visited Ruatahuna in January 1931, finding 'some distress' because unseasonal frosts had destroyed the potato crop; he suggested a development scheme.²⁴⁰ In May, Pakitu Wharekiri sent a petition to Ngata on behalf of 'Tuhoe at Ruatahuna' about the problems the people still faced, reiterating their hopes for work on the road, to provide employment, and bring the Ohau lands into the development scheme.²⁴¹ Ngata, the Tuawhenua researchers stated, would have known that the route lay on the promised arterial road to Ruatoki.²⁴² They concluded: 'With no sign of the road from Ruatahuna to Ruatoki and proposals for development in Ruatahuna being rejected, it was probably never clear to the people of Ruatahuna just what the government intended for them.'²⁴³

Pakitu Wharekiri, writing in October 1933, referred to earlier requests he had made for the road to be widened to Mataatua so that wool and sheep could be

235. Cleaver, 'Urewera Roding' (doc A25), p102; Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), p225

236. Cleaver, 'Urewera Roding' (doc A25), pp93-94

237. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p236

238. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp267-268

239. W Dempster to Director, Dairy Division, 6 March 1929 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p236)

240. Ngata to P Buck, 8 March 1931 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p267)

241. Pakitu Wharekiri to Native Minister, 4 May 1931 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p270)

242. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p270

243. *Ibid*, p237

cartered by lorry; and again, he now asked just for a six foot track to Ohaua 'so that he could extend his farm to grazing there'.²⁴⁴ In 1935, Galvin and Dun remarked on poor economic conditions at Ruatahuna, concluding that but for the development scheme, the 'local Natives would either have been destitute or starved out'.²⁴⁵ In 1937, R G Dick commented on 'a lack of access' to Ohaua, mistakenly concluding (as we have seen) that because of this it was gradually being abandoned.²⁴⁶ In the late 1940s there was still no more than a possibility that road access might be provided between Ruatahuna and Ohaua, after the Ruatahuna Development Scheme farm supervisor, Temuera Morrison, had advocated the extension of the Mataatua road a further eight miles north of Ruatahuna.²⁴⁷ But Tipi Ropiha, Native Under-Secretary, echoed previous official advice by concluding that the cost of road construction would far exceed the benefit to be derived from it.²⁴⁸

Evidence given by Korotau Tamiana and Menu Ripia highlighted the access problems that plagued farmers at Ohaua and at Hanamahihi in the post-war years, before the Ruatahuna farm amalgamation in 1962. Korotau Tamiana told us that his father, Tamiana Tawa, ultimately grazed 150 cattle and 330 sheep at Parakaeaea and Ohaua, while Menu Ripia's father, Hikawera Te Kurapa, grazed 150 sheep and 200 cows at Hanamahihi. Both men had broken in land for farming and laboured ceaselessly.²⁴⁹ The wool from Hikawera Te Kurapa's farm at Hanamahihi had to be taken out by horse track to Ruatoki (a three-day trip with at least six packhorses – or longer if the lower river was badly in flood, and a more arduous route had to be followed).²⁵⁰ In the end, Menu Ripia told us: 'The difficulties of farming there without road access made it too hard . . . for my father to continue.'²⁵¹

Korotau Tamiana spoke of the impact of there being no roads at Ohaua, which the farmers there found a 'frustration':

The old people used to complain about not having any roads. Eventually, they had to form their own tracks to get down to the stock yards at Paripari and Manatihono. If there had been proper roads the droving of stock and transporting equipment and materials would have been much easier.²⁵²

244. Pakitu Wharekiri to Ngata, 20 October 1933 (David Alexander, comp, supporting papers to 'The Land Development Schemes of the Urewera Inquiry District', 7 vols, various dates (doc A74(b)), vol 2, pp 563–564)

245. Galvin and Dun to Conservator of Forests, 29 April 1935 (Campbell, supporting papers to 'Te Urewera National Park 1952–75' (doc A60(a)), p 32

246. R G Dick to Under-Secretary for Lands, 20 August 1937 (Robertson, supporting papers to 'Te Urewera Surveys' (doc A120(a)), p 161); see also Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 187, 292

247. Alexander, 'Land Development Schemes' (doc A74), p 290; Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 321–322

248. Under-Secretary for Maori Affairs to clerk, Maori Affairs Committee, 23 August 1950 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 356)

249. Tamiana, brief of evidence (doc D20), p 3; Menu Ripia, brief of evidence, 10 May 2004 (doc D16), p 2

250. Ripia, brief of evidence (doc D16), pp 2–3

251. *Ibid*, p 4

252. Tamiana, brief of evidence (doc D20), p 5

He added that it was a big job getting the plough, disc, harrows, and scarifiers to Ohaua, and they used the river in flood to get some of the larger equipment there, floating them down the river. But in the end Tamiana Tawa's farm at Parekaeaea was amalgamated into the Ruatahuna Development Scheme – a huge disappointment to him, his son told us, because after all his work, it 'went back under the Maori Affairs'.²⁵³

William Te Rangiua (Pou) Temara also spoke about his grandfather, Tamahou Tinimene, moving to Waikarewhenua at the end of the Second World War, to clear-fell the land to grow food and run sheep. The second reason for moving there was because:

They talked about, and believed, that a road would eventually be built from Ruatahuna to Ruatoki following the Ohinemataroa River. If the road was built, it would be possible to form a road from Waikarewhenua to meet the main road at the mouth of the Waikare River. Such a road would be of benefit to the families with lands down the river. So they went to Waikarewhenua with those hopes.²⁵⁴

But, he added, the reality was that, 'without motorised access, Waikarewhenua was never going to be economically viable. The road they believed would be their economic salvation was not built'.²⁵⁵

Subsequently, in 1953, Pakitu Wharekiri described the sorry predicament of the Whakatane Valley farmers this way:

the Maori owners began to develop the land in the hope that the road soon will be formed, many of those who have started to farm are dead, and much of the land that was cleared has returned to second growth. Some of the descendants . . . are still farming, and transport their wool by pack horses to Taneatua, which takes four hours, or one and a half hours to adjoining farm[s]. When [the] river's in flood, the wool will have to remain until the next season, causing great hardship to these farmers and their families, unless they prepare stores for six months ahead.²⁵⁶

It is clear that farmers struggled on with determination against high odds, making a life for their families, co-operating with one another to overcome the difficulties that lack of transport posed. They aimed, Korotau Tamiana told us, 'to reach the goal of developing their land, everyone was trying to meet the goal of having the best farms in New Zealand . . . something to pass to their children and moko-puna'.²⁵⁷

253. Ibid, pp 4–5, 8

254. William Te Rangiua Temara, brief of evidence, 21 June 2004 (doc E10), pp 3, 11

255. Ibid, p16

256. 'Minutes of Tuhoē conference, Uwhiarae Marae, Ruatahuna', 23 May 1953 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 357). While in theory wool could be sold at any time, local wool sales would have been much less regular.

257. Tamiana, brief of evidence (doc D20), p7

The evidence of Korotau Tamiana, Menu Ripia, and Pou Temara indicates that the farms at Ohaua and Tarapounamu probably had similar grassed areas and flock size to those of Ruatahuna's development scheme farms.²⁵⁸ Although Korotau Tamiana observed that 'The land and climate at Ohaua was much better for farming' than that at Ruatahuna,²⁵⁹ one would expect the extra costs imposed because of the isolation of the two neighbouring areas (Ohaua and Hanamahihi) would have made the financial returns fairly similar. Ruatahuna's unit farms enjoyed a short period of profitability at the start of the 1950s, as Alexander's evidence on the development schemes demonstrated, but otherwise struggled; indeed, in his summary for the period 1937–1945, he noted that 'They had small flocks, which in most cases were not sufficient to provide a fulltime income.'²⁶⁰ Perhaps so, but we note the comment on Ropi Te Whenua's farm at Ohaua in a 1942 unit farming assessment which suggested that three unit farms should be dispensed with. The problem of 'track access' was mentioned, as well as 'the need to blade shear sheep and pack out the wool'; but still, despite this, 'Ropi's unit had turned a substantial credit for his account.'²⁶¹ And the question must be asked how the fortunes of the Ruatahuna, Ohaua, and Tarapounamu farms might have fared with the more direct route to Whakatane (a larger potential market than Murupara or Te Teko), which the Whakatane Valley arterial road would have provided.

Across the three areas left roadless – the Waimana Valley blocks, the Maungapohatu series, and the Ruatoki series – farming endeavours had survived for not much longer than a generation. With roads, farming would undoubtedly have survived for longer, and may well have continued, though in that case it probably would have proceeded on a different basis. Intensive dairying on relatively small grassed areas seems to have been the initial goal of Waimana and Maungapohatu block owners, but the scourge of ragwort compelled a shift in emphasis towards sheep, for which small blocks were not well suited. Likewise, as dairy farms became mechanised and electrified, it became more difficult for owners of small herds with limited capital to compete.²⁶² Together these factors made it necessary for the owners to consider amalgamation, which Maungapohatu block owners agreed to in 1962. Such factors unrelated to roads would have been less significant for the mixed livestock farms along the Whakatane Valley. Presumably their owners would have had to seek additional income from elsewhere, as many of the Ruatahuna Development Scheme farmers did. They might, however, have survived, and been able to stay on their own lands.

That factors other than the lack of roads contributed to the difficulty of farming along the arterial road routes does not, however, diminish the responsibility of the

258. In 1951, the Ruatahuna unit farmers typically had 100–350 acres under grass, on which they grazed 200–500 sheep, and under 100 store cattle: see Ashley Gould, 'Development Schemes' (commissioned research report, Wellington: Crown Law Office, 2005) (doc M6), pp 74–76.

259. Tamiana, brief of evidence (doc D20), pp 3–4

260. Alexander, 'Land Development Schemes' (doc A74), pp 286, 295, 304

261. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 317. The three units in question were in fact closed, but reinstated after the unit farmers protested.

262. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 597

Crown. By promising to provide roads in the first place, officials had promoted the development of blocks, which were then left increasingly inaccessible when the roads were not built. Tuhoe owners were stranded, locked into what became a futile battle to carry on without roads, while continuing to sink their investment in farming blocks that had no access. They were not even advised when the decision was taken not to complete the roads. Whether any alternatives were open to these owners is a moot point. They might perhaps have been able to redirect their resources into farming at Ruatahuna or Ruatoki. They might have supplemented such a move with co-operative sheep farming or cropping – less reliant on everyday transport – at places like Matahi. The Crown might have made land available to owners for exchange, had it entered into open discussions with them.²⁶³

We add that the roading settlement of 1958 made no provision for the very obvious prejudice suffered by owners of Urewera Consolidation Scheme blocks located along the promised arterial roads, when those roads failed to materialise. Nor did it offer any remedy for the ongoing costs such blocks would be faced with after that date because of the lack of roading. The Maungapohatu farm offers an example where these future costs were quite predictable, yet in this case it took the Crown until 2001 to provide a remedy (in the form of meeting maintenance costs for the Maungapohatu access road), and then only on the basis that it provided access to Department of Conservation lands as well. And in the case of the Maungapohatu milling grants and the Maungapohatu Incorporation farm, owners lost out by having to contribute financially to roading that should have been in place already.

15.3.9 The impact on the peoples of Waikaremoana

For the peoples of Waikaremoana, Ngati Ruapani, and Tuhoe, the consolidation scheme, as we have seen, was an unmitigated disaster. They emerged from the scheme with little land. On the northern side of the lake, Ngati Ruapani had been able to secure only 607 acres of reserves. Two of these reserves had the largest areas of cultivated land (150 acres and 50 acres respectively). On the south-eastern side, Ngati Ruapani and Tuhoe retained only Te Kopani and Heiotahoka reserves. In total they were left with only 1,900 acres. Given that there were more than 300 Ngati Ruapani owners included in the first Waikaremoana residue group, this would equate to about six acres per person.

But what Ruapani did have was the Crown's undertaking to pay them for their interests in the Waikaremoana block in debentures; half-yearly payments of interest would be made to the Native Trustee to distribute to them. The Trustee, however, began defaulting on its payments during the depression; by March 1932 they were owed £4,175. Some payments were made in May and July, but £1,709

263. Crown lands were available, for instance, at Tuararangaia, in Waiohau 1A, and in Tahora 2: see Peter Boston and Steven Oliver, 'Tahora' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A22), pp166, 180–182, 221–223; Peter Clayworth, 'A History of the Tuararangaia Blocks' (commissioned research report, Wellington: Waitangi Tribunal, 2001) (doc A3), pp114–115; Bernadette Arapere, 'A History of the Waiohau Blocks' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A26), pp71–72.

remained outstanding, and some beneficiaries complained that they had received nothing for more than two years.²⁶⁴ Admittedly, as O'Malley has observed, the annual amount paid to each person would not have been large – just over £3 – but in an impoverished community the payments were much needed.²⁶⁵ Subsequently, the debentures were converted into 4 per cent stock (and some, as they matured subsequently, were converted at a lesser rate), until the capital was repaid in January 1957.

Because the Crown promise to pay Ngati Ruapani in debentures was a key part of the terms on which consolidation was settled with them, we refer here to some of the impacts of the Crown's failure to ensure that payments were made at the times laid down. The delayed interest payments and lack of capital return had a significant effect on the peoples of Waikaremoana, particularly during the depression. By 1931, lack of work meant they were unable to meet new liabilities such as power bills. Kehua Winitana and others wrote to the Native Minister on behalf of holders of the Waikaremoana debentures seeking an advance on the interest payments or sale of their debentures.²⁶⁶ Early in 1932, Ngati Ruapani were still unable to pay their power account due to the Native Trustee failing to pay interest owing on the debentures.²⁶⁷ All power bill arrears were paid off when payments were finally made in subsequent months; the Government retained some of the interest arrears and transferred them to the Public Works Department for that purpose.²⁶⁸ But paying for power remained a problem, and in July 1934, the Public Works Department cut off the electricity supply to Kuha Pa because of unpaid bills. Power was reconnected after the acting registrar of the Native Land Court in Gisborne wrote to the Works Department at Tuai expressing regret that the department could not have waited, as previously, until the interest on the debentures was paid out in October. He pointed out, among other things, that the young men from the settlement were away possum hunting to help pay for necessities.²⁶⁹ It is clear that poverty persisted. Medical officer H B Turbott recorded in 1936 that the people at Waimako Pa could not raise the relatively modest cost of less than £4 for a badly needed new water tank.²⁷⁰

There was not enough food either. In 1932, the secretary of the Wairoa-based Kahungunu Association wrote to Ngata, to raise the issues of food shortages and delay in paying out debenture interest on behalf of Waikaremoana representatives. He requested an advance on the debenture payments to purchase flour and sugar.²⁷¹ In 1933, Judge Carr of the Native Land Court wrote to the Native Department that the beneficiaries of the Waikaremoana debentures were 'facing

264. O'Malley, 'Waikaremoana' (doc A50), p139

265. *Ibid*, pp 132–133, 135

266. *Ibid*, p133

267. *Ibid*, pp 135–137

268. *Ibid*, p137. The Government was able to withhold some of the interest arrears under section 96 of the Native Purposes Act 1931.

269. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p552

270. Walzl, 'Waikaremoana' (doc A73), p 233

271. O'Malley, 'Waikaremoana' (doc A50), p138

winter practically destitute.²⁷² The coroner visited Kuha and Waimako Pas in 1934 to investigate deaths there, which he attributed to malnutrition: 'It is pitiful to visit them and see the conditions in which they live. Having no feed for cows the children have no milk and the winter months in that locality are weeding out the frail.'²⁷³ The welfare officer in Wairoa – who visited the pa and estimated the total population to be 200 people in 58 families – found the situation to be not as bad as the coroner had reported. However, he recommended immediate food aid, the provision of seed potatoes and maize, and two unemployment contracts, one to prevent flooding of garden land and the other to fence the land.²⁷⁴ Although this aid provided some temporary relief, in early September 1934 a number of debenture beneficiaries petitioned the Tairāwhiti District Māori Land Board to pay them their interest immediately, as they were short of flour and sugar, and could not wait until December.²⁷⁵

Housing conditions for Waikaremoana Māori were also an ongoing cause of concern. In 1933, a lawyer acting on behalf of some of the beneficiaries wrote to the Native Minister to try to obtain some of the principal and interest on the debentures to improve their housing:

The people who have seen us are either living in other peoples houses or else are living in small sheds or hovels. We may say that the evidence of poor living conditions and of serious over-crowding in some small houses was very striking. We found from our enquiries that some of the applicants are living in small iron sheds without floors or windows and in one case a family is living in a corn-crib which has been slightly improved for human habitation. In another case a group of families totalling 15 or 16 persons are dwelling in one small house.²⁷⁶

The application came to nothing, despite being supported by Judge Carr, who wrote to Ngata that 'several of the people concerned are said to be roaming from friend to friend without any habitation of their own.'²⁷⁷ Problems continued despite an improvement in national economic conditions after 1934. In 1937, a Native Department housing inspector who visited the pa at Waimako and Kuha opined that 'most of the houses are not fit to be called houses'. His offers of assistance, as we have seen, were met with suspicion because Māori were concerned they would risk being put out of their homes if they accepted Government help. Most therefore refused to sign the required forms.²⁷⁸ But, like Māori elsewhere, even those Waikaremoana people who did apply for subsidised loans had

272. President, Tairāwhiti District Māori Land Board, to Native Under-Secretary, 2 May 1933 (Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 553)

273. Carr to Registrar, 28 June 1934 (Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 553)

274. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 553–554

275. *Ibid*, p 554

276. Gerard O'Malley to Native Minister, 31 July 1933 (O'Malley, 'Waikaremoana' (doc A50), p 144)

277. Carr to Native Under-Secretary, 21 February 1934 (O'Malley, 'Waikaremoana' (doc A50), p 145)

278. P Tureia to registrar, 12 July 1937 (O'Malley, 'Waikaremoana' (doc A50), pp 148–149)

trouble getting them because of lack of income and the fact that their houses were on native reserve land.²⁷⁹ The registrar of the Gisborne Native Land Court wrote to the Native Under-Secretary in frustration, stating that: ‘The position of the Waikaremoana Natives, as you are aware, has given grave concern not only to this Board but also to the Hospital and Charitable Aid Board, to sundry Members of Parliament, the Health Department and various missionaries.’²⁸⁰ No assistance was forthcoming. In 1939, the *Wairoa Star* reported the difficulties faced by Maori in obtaining adequate security to qualify for assistance. The paper described the state of Maori housing in the district, which included Waikaremoana, as ‘almost desperate.’²⁸¹

Vernon Winitana spoke to us about Ngati Ruapani memories of this time:

The issue of debenture payments is still with us today, with many people having been told the stories first hand from their whanau. Our people repeatedly asked for the debenture payments when they were due but were always faced with excuses. We had little food, couldn’t pay for doctors to visit, or for outstanding bills – in particular power bills – and when our people would ask for payment of their debentures they would be told ‘You ungrateful people, don’t you know there’s a depression on.’

Our people here were so desperate that Timi Kara [James Carroll] went around Wairoa township collecting food and clothing from his relations for our people. That was why he was held in such high regard in later years during the Lake lease negotiations and given a small portion of land at the Lake for his whanau [the Timi Taihoa reserve in the Waikaremoana block].²⁸²

15.3.10 Impacts on mana whenua – conclusion

By 1930, what had been intended as a self-governing Reserve, in full ownership and control of its Maori owners, was reduced to a shadow of its former self. These former owners no longer had a legal right to 482,300 acres of their ancestral heartland, which had become Crown land. Their ability to exercise kaitiakitanga over taonga within their rohe would be put to the test in subsequent years, as we explore in the next chapter. On top of this, the fragment of their remaining land had been fundamentally reordered: their new blocks of land were in multiple ownership, and titles would fractionate with each succeeding generation. Some owners – as many as 10 per cent – became landless, an outcome which officials took little care to avoid. The wider and inevitable result of land alienation on this scale was a substantial reduction in the economic capability of communities who had already lost their best land. To pose the question of whether Reserve block owners generally

279. O’Malley, ‘Waikaremoana’ (doc A50), pp 149–152

280. Registrar, Native Land Court, Gisborne, to Native Under-Secretary, 16 September 1937 (O’Malley, supporting papers to ‘Waikaremoana’ (doc A50(c)), p 787)

281. ‘Maori Housing – Scheme for Wairoa – Benefit to Natives – Difficulty of Security’, *Wairoa Star*, 6 March 1939 (O’Malley, supporting papers to ‘Waikaremoana’ (doc A50(c)), p 781)

282. Vernon Winitana, brief of evidence, no date (doc H28), p 9

retained 'sufficient' land would in our view do no more than highlight the fate of a Reserve which the Crown had committed itself to protecting. It is not a question we should have had to ask. And the answer is so obvious we refrain from spelling it out.

In 1896, the Crown promised to recognise and give effect to the mana motuhake and mana whenua of Te Urewera peoples. Instead it systematically undermined both. It could not however erase either. In the words of Tamati Kruger, the spirit of Te Whitu Tekau is still alive. Nevertheless, the hopes of Te Whitu Tekau were dashed and their worst fears realised by 1930.

We now turn to examine how the peoples of Te Urewera fared when, in the mid-1950s (in a two-stage process), the Crown turned the land it had been awarded into a national park.

CHAPTER 16

TE KAPUA POURI – TE UREWERA NATIONAL PARK

Official History

As a result of this tour [Premier Seddon's tour of Te Urewera in 1894] and a later visit by Tuhoe chiefs to Wellington, Seddon made several proposals to the Tuhoe including the appointment of a commission to define land boundaries and the election of an advisory committee, as well as the provision of schools and roads. Seddon suggested that native forests and birds should be protected, but that English birds and trout should be introduced to add to local food supplies. He also proposed that there should be more attractions for European tourists.

'This led to the passing of the Urewera District Native Reserve Act 1896. Unfortunately it did not work well in practice, and it was not until 1921 that the Crown and Maori owners reached a workable agreement, set down in the Urewera Lands Act 1921–22. This act remains the basic charter of Urewera land and the Crown land defined in this way has now become part of Urewera National Park.'

Department of Lands and Survey publication, 1983

Tuhoe History

SONNY WHITE: I have arranged for Mr J Keane, a Solicitor of Rotorua, who is well versed in the history of our land, to give you a summary of the land deals which have taken place in the Urewera. It is important that you should hear this history from our point of view as we feel it shows how the Maori rights in the area have been gradually reduced. You can also see how our people are very suspicious of any moves which any Government may make to take away from us, whether by purchase or otherwise any more of our land . . .

J KEANE: You may wonder why it is that negotiations by the Crown during the 1930's and two years ago have broken down. But the brief history which I propose to give you of the Urewera lands should throw considerable light on the attitude

of the owners and you will be able to appreciate that a very serious problem is involved in it.

'As is stated in the historical review contained in the report tabled in the House in 1921, "Prior to the year 1896, it may be said that the Queen's writ did not run in the area."

'In 1896, Premier Seddon and the Minister of Maori Affairs paid a personal visit to the area and negotiated with the owners and the Urewera District Native Reserve Act 1896 was passed.

'In the debate in the House, Sir James Carroll (then Mr) is reported . . . as saying "it is their (the owners') ardent wish that this land be preserved to them." Mr Seddon in concluding his speech stated, "I hope to see this Bill passed and placed on the Statute Book and an opportunity given to the Tuhoe people to conserve their lands to themselves, thus maintaining a pledge given over a quarter of a century ago by Sir Donald McLean."

'That pledge was given 80 years ago, was confirmed 60 years ago and the owners request that it be maintained. In this connection, the owners look with hope towards their Minister . . . [that] the promise of Sir Donald McLean given about 1870 and confirmed by Mr Seddon in 1896, that their lands be conserved to them will also be fulfilled.

'The second question which exercises the minds of the owners is the fact that their ancestral lands have, over a lengthy period, been whittled down . . .

'If the small area left to them is also taken for a National Park, they will lose those lands forever and will receive in exchange, money which will be of no use to them as they will not have the lands to use it. The ancestral lands will be gone and the Tuhoe people scattered.'

Minutes of meeting between Tuhoe and Minister of Maori Affairs, 1953

16.1 INTRODUCTION

Te Urewera National Park was established in the Waikaremoana district in 1954 and then extended in 1957 to take in much of the rest of Te Urewera. The park consists of 212,673 hectares (525,526 acres) of former Maori land. It is made up almost entirely of the Crown's award from the Urewera Consolidation Scheme (UCS), with the addition of the north-eastern portion of the former Waiau, Tukurangi, and Taramarama blocks (acquired by the Crown in the mid-1870s), the Manuoha and Paharakeke blocks (added in 1962), and the bed of Lake Waikaremoana, which the Crown leases from its Maori owners.

New Zealand's national parks preserve our heritage: the iconic landscapes, animals, and plants that are distinctively our own. Their ecological significance as the jewels of the conservation estate is matched only by their profound cultural

Resolving Grievances for the Good of All New Zealanders

I HAVE prepared this evidence to assist a resolution to long standing issues. The unresolved grievances impact virtually daily on the work of my staff and the organisation I represent. I know they can weigh heavily on local people as they go about their daily business.

'The grievances unresolved reduce our collective potential to restore and maintain Aotearoa New Zealand's natural heritage. Resolution is thus not only an issue for the claimants. Enduring and equitable resolution is keenly sought by non claimants as well. Resolution will enable us all to move on proactively and productively for the good of this country and our people.'

Peter Williamson, Department of Conservation, 2005

importance. Te Urewera National Park is no exception, as the Department of Lands and Survey described in a 1983 publication:

Its vast size allows a wealth of plant and animal life to be preserved within its boundaries. It is also the largest untouched native forest tract in the North Island, making it valuable for its scenic beauty alone . . . In establishing the park, it was ensured that the Urewera would be retained in its natural state, for the use of all people.¹

For Maori, as the Waitangi Tribunal explained in its Wai 262 report, national parks are of immense significance and value because they preserve the ancestral landscape encountered by the first voyagers from Hawaiki, and also many of the treasured birds and plants that are now hardly to be found outside of New Zealand's conservation estate. For the cultural survival of Maori as Maori, access to and some control over the conservation estate in general, and national parks in particular, is seen as vital.²

But the history of the creation of Te Urewera National Park is a painful one. This chapter of our report is about the claims we received in relation to the park. It may be difficult for New Zealanders to appreciate why something so highly valued should have resulted in Maori grievances and Treaty claims. To understand that point, it must be remembered that Te Urewera National Park dominates the district and its Maori communities, most of which are located alongside or even

1. Department of Lands and Survey, *Land of the Mist: The Story of Urewera National Park* (Gisborne: Department of Lands and Survey, 1983), p 5

2. Waitangi Tribunal, *Ko Aotearoa Tenei: A Report into Claims concerning New Zealand Law and Policy Affecting Maori Culture and Identity, Te Taumata Tuarua*, 2 vols (Wellington: Legislation Direct, 2011), vol 1, ch 4, esp p 363

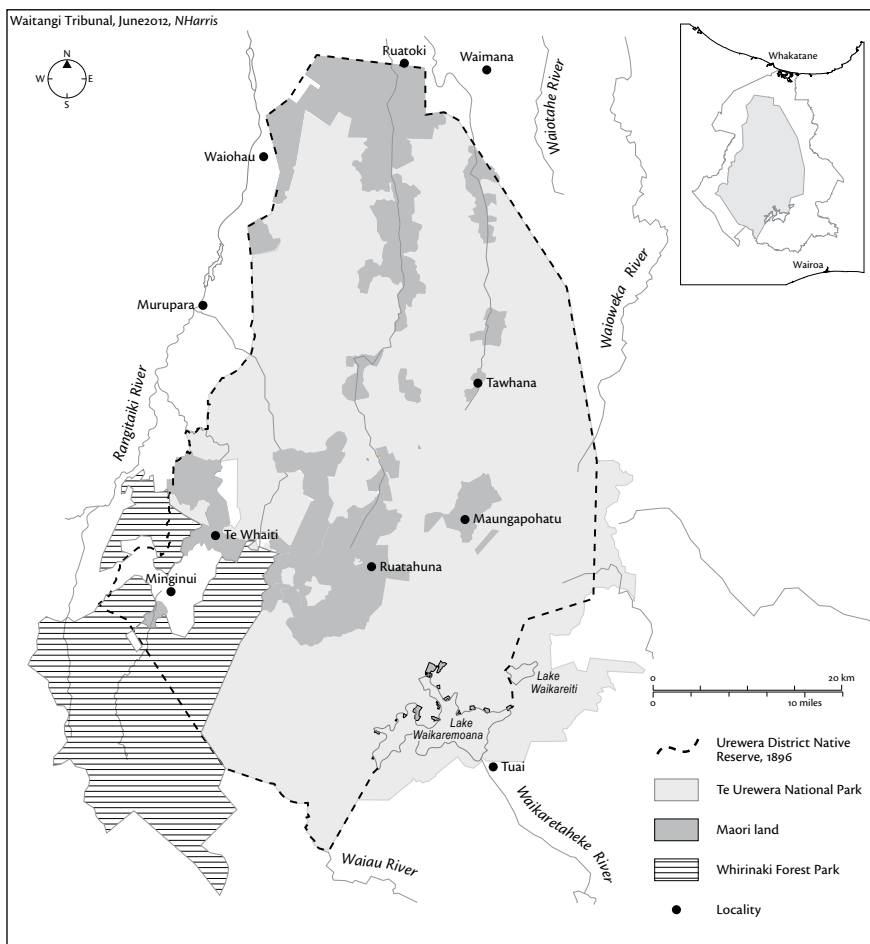


Te Urewera National Park. The park is often regarded as one of the last untouched 'wilderness' areas in New Zealand. For the peoples of Te Urewera, however, it stands as a painful reminder of a history of loss of traditional lands and resources. The Crown, despite its promise to preserve their ownership of the Urewera District Native Reserve, had itself become the owner of most of the Reserve, which in turn would become the National Park.



TE UREWERA

16.1



Map 16.1: Te Urewera National Park and Maori land. In 1954, the national park was created. With the addition of most of the Crown's remaining land from the Urewera Consolidation Scheme in 1957 and the Manuoha and Paharakeke blocks in 1961, the boundaries of the park as it is today were formed.

inside the park. The park, now and in the future, is of huge concern to local iwi. Its origins lie in the past – nearly a century ago – but in this chapter, for the first time in this report, we also deal with events that unfolded in the lifetimes of many of those who spoke to us in the hearings, and that have left a bitter taste.

For the claimants who appeared before us, and whose homes are within or adjacent to the park, its lands are lands with which they have strong and lasting ancestral connections, whose histories are so well known to them, and whose resources they have used for hundreds of years. To them, the national park is a massive and intrusive block of Crown land in their midst. They see it as a stark contrast to the

remnants left to them in the wake of a succession of Crown acts over several generations – confiscation, war, and illegal purchasing in all their lands – where they have struggled for a long time to survive. And yet they also see it as still ‘their’ land, their *turangawaewae*, still a place for them to exercise long-held rights of customary use and for which they are the *kaitiaki* or responsible guardians.

To understand the park’s place in the lives of the Maori communities of Te Urewera, we begin with a brief traverse of its boundaries. At more than half a million acres, these boundaries touch all the Maori communities of the area. Maungapohatu is completely surrounded by park lands. Ruatahuna, the ancient centre of Tuhoe, still a strong community, is bounded by the park on three sides. Waimana and Ruatoki, core Tuhoe communities, border the park to the south. Te Whaiti, the major community of Ngati Whare, and Murupara, home of Ngati Manawa, lie to the west of the park in the Whirinaki Valley. Near Lake Waikaremoana, the *marae* complexes of Te Kuha and Waimako on Te Kopani Reserve are three kilometres from the park.

Belonging to some of these core communities are significant ‘enclaves’ of Maori land inside the park. Tuhoe, Ngati Kahungunu, and Ngati Ruapani share ownership of the lakebed of Waikaremoana. There are 607 acres of Ruapani reserves on the northern fringes of Lake Waikaremoana, which became reservations under section 439 of the Maori Affairs Act in 1972. Otherwise, all the Maori land inside the park is owned by Tuhoe.

The way in which the park and its administration has been superimposed on Maori communities, for whom its lands are *turangawaewae*, sets Te Urewera National Park apart from any other in New Zealand (see map 16.1). In the claimants’ view, its presence has blighted their economic development and turned the last few lands they still retain into ‘virtual park’, yet they gain no corresponding benefits. The Crown, they say, tried for decades to wrest their remaining lands from them for the park, and also put tight restrictions on their ability to make any economic use of their lands. The claimants also see their *kaitiakitanga* and their customary use rights as inhibited or prevented by the park. In their eyes, the park was designed for preservationists and recreational users at the expense of *tangata whenua*. Rather than the claimants having a sufficient role and authority in decision-making and management of the park, they argue, they are treated as one group of submitters among many. Their wishes are disregarded and their values set at nought. The park is not a ‘good neighbour’.

The Crown denies these allegations. In its view, there was indeed ‘insufficient partnership in the Crown/Urewera Maori relationship prior to the 1980s’. But ‘the level of consultation and involvement of Urewera Maori in the management of the Park’ would only be ‘considered inadequate by today’s standards.’³ In fact, the Crown’s submission is that there have been no Treaty breaches in the establishment or management of the park, nor in any of its impacts on its Maori neighbours. The park is not a ‘bad neighbour’. In particular, the Crown’s view is that

3. Crown counsel, closing submissions, June 2005 (doc N20), topic 33, p 2v

the Department of Conservation (DOC) does much more than consult Maori as stakeholders. The claimants' evidence is focused too much on formalities and structures, the Crown asserts, and plays down the ways in which their wishes have been accommodated in the management and running of the park. Further, while the Crown admittedly tried for many years to buy more Maori land for the park, it says that its efforts were unsuccessful and therefore of little effect. It only managed to buy Manuoha and Paharakeke in the east of the inquiry district, which it says it purchased from willing sellers for a fair price.

But it is not just the presence of the park that is at the heart of the grievance of the peoples of Te Urewera. It is its history. It is the fact that the park lands, just 50 years before, had been the Urewera District Native Reserve (UDNR) – lands that were entirely Maori-owned, that were in 1896 offered the protection of their own Act of Parliament. Within the Reserve, the Crown agreed, at that time, the peoples of Te Urewera were to be self-governing. This was a unique recognition of tribal self-government. And yet the Crown, as we have seen in chapter 13, engineered the collapse of the Reserve in the early twentieth century by failing to ensure the prompt creation of the General Committee, the vehicle for self-government and the collective management of the Reserve lands. Having failed to ensure that the Committee had the chance to become an effective body, the Crown then ignored it altogether and embarked on the illegal purchase of owners' undivided, individual interests in the Reserve (for a settlement scheme that never happened). As we saw in chapter 14, the eventual separation of Crown and Maori interests occurred in the 1920s' consolidation scheme, through which the Crown secured yet more large areas of land for survey costs and in part payment for roads. Ngati Ruapani in particular were left virtually landless.

The Crown's ownership of the national park daily reminds the peoples of Te Urewera that these wrongs of the past have not yet been put right. Only a small proportion of their lands remain for them; by far the greater part passed unjustly into the hands of the Crown. Because of this, and because the park is founded on cultural beliefs that seem at odds with their knowledge of and dependence on the sustainable use of natural resources, it remains a foreboding presence. So, while the park lands lie outside the Bay of Plenty raupatu (see chapter 4), it was quite often said at our hearings that the park lands are among those confiscated by the Crown. The park has come to symbolise all of the Crown's wrongs against Te Urewera peoples, as well as their continuing struggle for recognition of their rights.

Crown counsel observed: "The Crown has conceded Treaty breach in respect of the Crown's conduct in purchasing shares in land within the Urewera District Native Reserve. The Crown award, following consolidation, forms a substantial portion of the current National Park."⁴

Yet, the Crown's position in our inquiry was to divorce this reality from the national park, as though history had stopped in 1927. In our view, this kind of thinking in the past has done both Crown and claimants a great disservice. The

4. Crown counsel, closing submissions, June 2005 (doc N20), topic 33, p 2

park rests on a defective foundation and until that is acknowledged and its implications resolved, the peoples of Te Urewera will never entirely accept the park or its kaupapa. Our purpose in this chapter, therefore, is to highlight the fundamental basis of the claimants' grievance, which has been widely publicised but is little understood by New Zealanders, and to determine why the intervening years from 1954 have further intensified that grievance, and levelled it ever more specifically at the park.

16.2 ISSUES FOR TRIBUNAL DETERMINATION

In order to determine whether the claimants' allegations about Te Urewera National Park are well founded, there are five key questions to be answered in this chapter:

- ▶ Why and how was a national park established in Te Urewera?
- ▶ How has the national park affected the economic opportunities of Maori communities in Te Urewera?
- ▶ Did the Crown purchase Manuoha and Paharakeke from informed and willing sellers, and was the purchase fair in all the circumstances?
- ▶ How has the national park affected the ability of Te Urewera peoples to continue their customary uses of park lands and their exercise of kaitiaki responsibilities?
- ▶ To what extent have the peoples of Te Urewera been represented or otherwise involved in the governance, management, and day-to-day administration of Te Urewera National Park?

We turn next to an explanation of key facts about Te Urewera National Park, which the reader must understand before we set out the essence of the differences between the parties, and then analyse and make findings about the claims before us.

16.3 KEY FACTS

16.3.1 The establishment of a national park in Te Urewera

Te Urewera National Park was established in 1954, under the National Parks Act 1952. The park was greatly expanded in 1957, and today occupies an area of 212,673 hectares (525,526 acres), making it New Zealand's fourth largest national park. It is made up almost entirely of the Crown's award (482,300 acres) from the Urewera Consolidation Scheme, with the addition of the north-eastern portion of the former Waiiau, Tukurangi, and Taramarama blocks (some 20,000 acres), the Manuoha and Paharakeke blocks (around 38,000 acres, added in 1962), and the bed of Lake Waikaremoana, which the Crown leases from its Maori owners.

Before 1952, there were just four national parks: Tongariro (1894), Egmont (1900), Arthur's Pass (1929), and Abel Tasman (1942). Parks (and other forms of State protection such as scenic reserves) reflected colonists' concerns to preserve remnants of the natural environment and 'wilderness' landscapes. Even so, Ngati Tuwharetoa played an important role in New Zealand's first national park

(Tongariro) and maintained important links with it. Governing legislation – individual Park Acts, the Public Domains Act 1881, and the Public Reserves, Domains and National Parks Act 1928 – provided for tourist accommodation and recreational facilities to be developed in the protected areas, but prohibited permanent settlements or the removal of plants and other materials.

The Crown had long considered the scenic landscapes and rugged mountain forests of Te Urewera as worthy of some form of State protection. After abandoning plans for farm settlement schemes, the Crown considered national park status in the 1930s as it contemplated the best use of the land it had been awarded there through the consolidation scheme, on the basis of its extensive purchasing. Protection of the catchment forests and scenic landscapes of Te Urewera had become important elements in Crown policy; but it rejected a national park option in favour of multi-purpose Crown management, including the need to take account of the economic needs of Maori communities in the district. During the 30 or so years that elapsed between the Urewera Consolidation Scheme and the establishment of the national park, there were comparatively few restrictions imposed on the use of the lands the Crown had acquired, so customary uses of those lands by the peoples of Te Urewera continued largely unabated.

A proposal for a national park in Te Urewera was raised again in the context of the passing of the National Parks Act 1952. Interest groups such as the Federated Mountain Clubs, the Royal Forest and Bird Protection Society, and scientific bodies had sought new legislation that provided more certainty about the purposes of national parks as protection for remaining native forests and wilderness landscapes, and a more coherent administration. Their interests dovetailed with Government concerns to protect important forest catchments and water supply areas in the national interest. The 1952 Act encouraged the establishment of a new group of national parks including Sounds (Fiordland) (1952), Mount Cook (1953), Te Urewera (1954), Nelson Lakes (1956), Westland (1960), and Mount Aspiring (1964).

The National Parks Act 1952 set out its purposes and the principles to be observed in the administration of national parks. It spelt out the general purposes of national parks as ‘preserving in perpetuity . . . for the benefit and enjoyment of the public, areas of New Zealand that contain scenery of such distinctive quality or natural features so beautiful or unique that their preservation is in the national interest’ (section 3(1)). All but one of the five principles to be observed by park administrators emphasised preservation – of nature, of native flora and fauna, of sites and objects of historical interest, and of soil, water, and forest conservation areas. The fifth principle was that the public should have freedom of entry and access to national parks so that they may ‘receive in full measure the inspiration, enjoyment, recreation and other benefits to be derived from mountains, forests, sounds, lakes, and rivers’ (section 3(2), as amended in 1972).

The Act’s purposes and principles made no mention of Maori interests. The underlying premise was that the Act’s articulation of the ‘national interest’ in national parks, and of ‘the benefit and enjoyment’ that ‘the public’ obtain from national parks, applied equally to all New Zealanders.

A fundamental question that the Act raised for park administrators was how to achieve the purposes of preserving the natural resources of national parks while allowing the public to enjoy them. Other provisions of the 1952 Act provided guidance on this issue by identifying activities that, generally, could or could not be undertaken in a national park. Those provisions made plain, for example, that certain recreational uses of national parks by the public were allowable – including tramping and skiing – as was the building of huts and ski tows to facilitate the enjoyment of park visitors engaged in those activities. Other allowable uses related to public purposes, and to the grant of rights to use water for electricity generation. But the Act made plain that it was generally not allowable to remove anything at all from a national park – including any plant or stone. The particular blend of recreational and preservationist interests promoted by the 1952 Act reflected the influence of the recreational and conservation groups most closely involved in the Act's development.

Maori were not consulted about the 1952 Act. It did not require formal acknowledgement or representation of Maori interests on the new nationwide policy body, the National Parks Authority, or on the park boards established for each new park. The peoples of Te Urewera were not consulted about the Act or the Government proposal made during parliamentary debates on it for a national park in Te Urewera. They were consulted about the name in early 1954, after the National Parks Authority had recommended a park in the district.

Te Urewera National Park was established in two stages, in 1954 and 1957. The first National Parks Authority recommendation, in 1953, was for a smaller area than the Government wanted. This area of around 116,000 acres included the important and scenic Waikaremoana forest catchment. It deliberately excluded, for the meantime, forest areas where Crown and Maori landholdings remained mixed together, and where the authority wanted to know more about the commercial potential for milling.

Government Minister Ernest Corbett (Minister for Lands, Forests and Maori Affairs), who was anxious to establish a park in Te Urewera, met with Tuhoe in December 1953 at Ruatahuna. For the first time, Corbett heard Tuhoe concerns for the survival of their communities and their determination to remain on their own lands. Acknowledging the justice of their concerns, Corbett suggested that the land around Ruatahuna should be classified according to whether it could be safely milled. Development could then proceed on suitable land, while the Crown acquired steep erosion-prone Maori land for the park, in exchange for Crown land elsewhere in the district. An agreement was forged between Corbett and Tuhoe on this basis. Following this, the smaller park area (116,000 acres) as recommended by the authority, was gazetted 'Urewera National Park' in 1954.

Three years later, in 1957, the park area was considerably expanded to just over 450,000 acres when an additional 334,000 acres of Crown land was gazetted. During 1954–55, the Urewera Land Use Committee had classified Maori land around Ruatahuna under the agreement reached between Corbett and Tuhoe. This enabled substantial milling of forests there. But the proposed land exchanges fell through, because of a lack of suitable Crown land for exchange. In mid-1955

Administrative body	Membership	Function
National Parks Authority	Statutory members: <ul style="list-style-type: none"> › Director-General of Lands (chair). › Deputy Director-General of Lands (deputy chair). › Secretary for Internal Affairs. › Director of Forestry. › General manager, Department of Tourism and Health Resorts. › General manager, Tourist Hotel Corporation. › Royal Society – one representative. › Forest and Bird – one representative. › Federated Mountain Clubs – one representative. › Park board representative(s) – originally one, then two. › No statutory provision was made for Maori representation. 	Nationwide policy and advisory role for all national parks.
Commissioner of Crown lands (1954–61) Te Urewera National Park Board (from late 1961)	District commissioner of Crown lands (chair) plus up to eight members appointed by Minister of Lands on advice of National Parks Authority.	Management of Te Urewera National Park.
Department of Lands and Survey, Hamilton	No statutory place for Maori, but Tuhoë were always represented by one member (and, for a time, two members) and, from 1974, Ngati Kahungunu were also represented by one member.	Administration of National Parks Act 1952 (including, from 1969, employment of park rangers and other specialist staff).
Minister of Lands		Responsible for national parks system, acting on the advice and recommendations of the National Parks Authority.

Table 16.1: Te Urewera National Park administration, 1954–80

the Crown reverted to relying on purchasing Maori land. Its own large block was added to the park in the hope this would overcome continuing Tuhoe reluctance to part with more of their own land for the park. By 1957, therefore, a very large national park had been created in Te Urewera under administration that was not required to take formal account of Maori interests and with statutory purposes that were not easily compatible with the continued viability of Te Urewera communities.

16.3.2 Te Urewera National Park administration 1954–1980

Since 1952, the national parks administrative regime has always involved a central statutory body, a second-tier set of statutory bodies at park or regional level, a Government department, and a Minister. However, the nature and roles of those various components of the regime have changed dramatically over the years in the wake of several Government reviews and legislative changes. It is necessary to provide a brief overview of these often complex changes.

There have been three different bodies with nationwide responsibilities for national parks. They are:

- ▶ the National Parks Authority (1952–1981);
- ▶ the National Parks and Reserves Authority (1981–90); and
- ▶ the New Zealand Conservation Authority (since 1991).

At the next level, of the park or region, Te Urewera National Park has been the responsibility of six different statutory bodies:

- ▶ the commissioner of Crown lands for South Auckland (1954–61);
- ▶ Te Urewera National Park Board (1962–81);
- ▶ the East Coast National Parks and Reserves Board (1981–90);
- ▶ the East Coast Conservation Board (1990–98);
- ▶ the East Coast Hawke's Bay Conservation Board (1998–2009); and
- ▶ the East Coast Bay of Plenty Conservation Board.

As well, there have been two Government departments responsible for the administration of the National Parks Acts 1952 and 1980, both of which have made internal changes to their organisation that have affected their administration of the park. And naturally, the two Ministers responsible for those departments have been involved. The departments are the Lands and Survey Department (until 1987) and, since then, the Department of Conservation.

The 1952 Act provided that individual park boards were to manage each park but that, until a board was appointed, a district commissioner of Crown lands of the Department of Lands and Survey could exercise virtually all of its powers. In Te Urewera, the commissioner of Crown lands for South Auckland managed the national park from 1954 until late 1961, when a park board was appointed by the Minister. At that time, as the Act prescribed, the commissioner became the park board's chair. During the lifetime of Te Urewera National Park Board (until 1980), its appointed members were, typically, a mix of local farmers, public servants, local government officers, members of the Forest and Bird Protection Society or the Federated Mountain Clubs, and one or two representatives of local iwi. Iwi representatives were appointed by ministerial convention rather than through

statutory provision, a convention that has continued on all subsequent regional boards which have replaced the park board.

The 1952 Act also empowered the park boards to employ rangers to manage the day-to-day operations of the parks. Park rangers were employees of the Te Urewera National Park Board until 1969 when, as part of a move to professionalise the Department of Lands and Survey's approach to national parks and reserves administration, they became employees of that department. During the 1970s, the department added other professional staff – including planners and landscape architects – to assist with park management. Te Urewera National Park became divided into three management sectors – Aniwaniwa/Waikaremoana, Murupara, and Taneatua – for administrative purposes. The Waikaremoana sector included the park headquarters at Aniwaniwa, situated beside Lake Waikaremoana, a lake which Crown officials considered the centrepiece of the park and the region. The park's visitor centre and museum was opened in 1976 at Aniwaniwa, and the museum became a registered collector of taonga under the Antiquities Act 1975. Ranger stations were established at Murupara and Taneatua (however, the ranger for the Taneatua or northern sector was based at Whakatane until 1979), with the chief ranger based at Aniwaniwa.

In order to promote the consistent administration of New Zealand's national parks by the park boards, the National Parks Authority was empowered to issue general policy statements, in which it interpreted the Act's meaning or intentions on important issues, to guide park management. It issued two general policy statements during its lifetime, in 1964 and 1978. The 1964 *General Policy for National Parks* contained 30 brief, mainly non-prescriptive, statements on a range of subjects that park boards would need to consider. One prescriptively worded policy was that a park board must produce a 'master plan' that clearly identified the resources of the park and their values. The Te Urewera National Park Board issued its first plan in 1976. The plan emphasised the 'wilderness' character of the park and the need to preserve it, and the board outlined its policies for the park over a wide variety of subjects.

The expansion of the park in 1957 meant that it enclosed or abutted some 133,298 acres of Maori land. That land was comprised of 180 small blocks which the owners had retained in the wake of the Urewera Consolidation Scheme. The majority of these blocks were adjacent to the park, but many of them became completely surrounded by the park.

Park administrators referred to the blocks that were completely enclosed by the park as the 'Maori enclaves'. Tuhoe lands enclosed by the park at the time of its expansion in 1957 include several isolated blocks in or near the upper Ohinemataroa or Whakatane Valley between Ruatoki and Ruatahuna; and in the upper Waimana Valley including Tawhana and Tauwharemanuka; blocks totalling 6,529 acres at Maungapohatu; and the bed of Lake Waikaremoana, owned by Tuhoe, Ngati Ruapani, and Ngati Kahungunu. In addition, Ngati Ruapani owned 14 small reserves around Lake Waikaremoana totalling 607 acres. In 1977, the Crown returned to the Tuhoe-Waikaremoana Maori Trust Board the Maungapohatu burial reserve, which had been a separate Crown reserve that was not included in

the park but was encompassed by it. As a result, Tuhoe's sacred maunga became another block of Maori land that was enclosed by the park.

Of the Maori land blocks that abutted the park after 1957, the majority were also owned by Tuhoe. These included many blocks in the upper Ohinemataroa (Whakatane) River valley just south of Ruatoki, some smaller blocks of land in the upper Waimana River valley near the communities of Matahi and Whakarae, and a large area of forested land surrounding Ruatahuna of at least 40,000 acres. Furthermore, the Manuoha and Paharakeke blocks (comprising 38,000 acres of forested land situated at the head of the Wairoa River north-east of Lake Waikaremoana) also abutted the park. Manuoha had been awarded to the descendants of Hinanga by the second Urewera commission. Paharakeke had been awarded to Wi Pere and the hapu of Ngati Maru, Ngati Rua, and Ngati Hine.

The enclosed lands at Maungapohatu and in the upper Waimana and Ohinemataroa (Whakatane) Valleys were home to Tuhoe communities which had experienced rapid decline in the 1930s and 1940s, after which only a few families managed to stay on. But even today a few of these blocks are inhabited by one or two whanau running small farms, and many contain abandoned kainga and sacred wahi tapu sites. The tracks to these communities, often along the unformed legal roads that the Crown had promised and failed to build as part of the Urewera Consolidation Scheme, have become the basis for vital tracks within the park. In effect, this means that trampers and hunters regularly have to cross Maori land within the park. Similarly, the public has to cross adjoining Maori land to gain entry to the park from the north and at Ruatahuna.

The Crown continued its active efforts to buy blocks of Maori land within and beside the park after the park was enlarged in 1957. But the only substantial area of Maori land that the Crown succeeded in purchasing was the Manuoha and Paharakeke blocks, which were added to the park in 1962. To ensure public access to the lake, the Crown also attempted to acquire the bed of Lake Waikaremoana, including a ring of land surrounding the lake that had been exposed by the lowering of its water level for electricity generation. Yet, its Maori owners did not want to part with their land. In 1971, an agreement was reached, validated by the Lake Waikaremoana Act 1971, whereby the Tuhoe-Waikaremoana Maori Trust Board, and the Wairoa-Waikaremoana Maori Trust Board became owners of the lakebed and leased it to the Crown for inclusion in the park. The lease was backdated to 1967 and was to last 50 years. It was not until the late 1970s that the Crown ended the major push to acquire Maori land beside and within the park.

Soon after the park was created, Maori sold, or attempted to sell to private timber companies, the cutting rights on much of their land adjacent to or within the park. In 1961, the Crown issued a notice under section 34 of the Soil Conservation and Rivers Control Amendment Act 1959 over most of the area that had once been the Urewera District Native Reserve, prohibiting logging unless permitted by the Soil Conservation and Rivers Control Council. However, some intermittent milling occurred after 1961 (largely resulting from prior agreements reached between Maori and timber companies), especially at Maungapohatu from 1962 to 1976. The first road connecting Maungapohatu to the outside world was built in 1964 by a

Administrative body	Membership	Function
National Parks and Reserves Authority	<p>Ten members appointed by Minister of Lands:</p> <ul style="list-style-type: none"> ▶ three nominees of Royal Society, Forest and Bird Protection Society, and Federated Mountain Clubs; plus ▶ three appointed in consultation with Ministers of Tourism and local government; plus ▶ four appointed (after public notice and nominations) for their special knowledge or interest in matters connected to national parks and reserves or wildlife. 	Nationwide policy and supervisory role for all national parks, plus any functions delegated by the Minister in relation to public scenic reserves.
East Coast National Parks and Reserves Board (serviced by Lands and Survey, Napier)	<p>Ten members appointed by the Minister after public nomination process and after consulting the Authority. No statutory place for Maori but Tuhoë and Ngati Kahungunu were always represented by one member each.</p>	Policy, planning, monitoring, and advisory roles for the region's national parks and public scenic reserves.
Department of Lands and Survey, Gisborne (until 1987) Department of Conservation, Rotorua and Gisborne (from 1987)		Park management (role virtually identical to role of park boards under 1952 Act).
Minister of Lands (until 1987) Minister of Conservation (from 1987)		Responsible for national parks system with policy role exercised on advice of National Parks and Reserves Authority and operational powers (mostly delegated to Director-General) exercisable consistently with park management plans.

Table 16.2: Te Urewera National Park Administration, 1980–90

private timber company. As the public gained better access to Maori land, some wahi tapu sites were desecrated, removed, or vandalised.

The creation of Te Urewera National Park brought about a series of restrictions on the customary uses made of its lands and resources by the peoples of Te Urewera. The 1952 Act made it an offence to shoot at any animal, or take any plant or tree, without the permission of the park board. In Te Urewera, permission to take some culturally important plants, such as kiekie and pikopiko, was often granted despite the provisions of the Act, but for some years this was not official park policy; rather, it occurred on an ad hoc and inconsistent basis. Park policy did not make any formal provision for customary harvests until 1989; prior approval of park management had to be obtained.

Hunting anywhere in the park required a permit, first from the commissioner of Crown lands, then from the park board. The use of pig dogs for hunting also required a permit, and the park board banned their use between 1973 and 1982. A permit system for horses was introduced from 1971. The right of Maori to use horses to access their own lands was always and still is recognised, though from 1989 the policy became more restrictive. Commercial and recreational hunting was also encouraged as a means to control introduced wild animals, provided hunters obtained permits.

While commercial hunting for possum skins and deer provided some limited employment to local Maori, tourism within the park never provided many employment opportunities. In 1975, the park board granted its first concession to a Maori commercial tourist venture to operate treks through the park.

16.3.3 Te Urewera National Park Administration, 1980–90

A new era of national parks administration began in 1980 when the National Parks Act 1952 was repealed and replaced by the National Parks Act 1980. While the 1980 Act largely re-enacted the purposes and principles of the 1952 Act, it completely changed the framework for administering national parks so that policy and planning functions became more open to input from interested members of the public, and control of day-to-day operations passed from the park board to departmental (Lands and Survey) officers. To achieve these ends, the 1980 Act abolished the National Parks Authority and the individual park boards and replaced them with a National Parks and Reserves Authority and regional parks and reserves boards. The new bodies were made up of knowledgeable private citizens, and their policy, planning, advisory, and monitoring responsibilities stretched beyond national parks to include important public reserves in the region. In the extensive East Coast region, within which Te Urewera National Park was located, the Minister's appointments to the East Coast National Parks and Reserves Board included one Tuhoe and one Ngati Kahungunu representative.

Sections 41 and 42 of the 1980 Act state that neither the Minister nor the Director-General can delegate their powers to anyone outside the department, which meant that responsibility for the administration of national parks was held by the Department of Lands and Survey until 1987, and has been held by the Department of Conservation since 1987.

National park management plans are made compulsory by the 1980 Act, which prescribes a consultative process, including public submissions, for developing and reviewing them. A park management plan is a vital document because the Act requires departmental staff, and also the Minister when exercising particular powers conferred by the 1980 Act, to act consistently with a park's plan.

In 1983, the National Parks and Reserves Authority issued its *General Policy for National Parks* – a much more detailed and prescriptive document than its predecessors. The review of the Te Urewera National Park management plan also began at that time but was not completed until 1989. In part this was due to the Department of Lands and Survey switching responsibility for the park's administration from Hamilton to its Gisborne office. But even more disruptive was the major restructuring of the conservation estate that culminated in the Conservation Act 1987. Among other things, that Act vests in the new Department of Conservation the responsibility for national parks previously exercised by Lands and Survey. It also requires the department to administer the Act so as to give effect to the principles of the Treaty of Waitangi.

A report published in 1986 by Evelyn Stokes, Wharehuia Milroy, and Hirini Melbourne on the peoples of Te Urewera and their relationship with the forests had some influence on the 1989 plan for Te Urewera National Park. It brought together information about the history of the area, the socio-economic circumstances of its Maori communities, and their criticisms of the park's administration. While the 1989 management plan recognised that Te Urewera is Tuhoe's homeland, it continued the overarching policy emphasis on preservation and recreational interests. A new element of the preservationist policy was to not identify wahi tapu sites if Maori did not want them publicised. The plan also noted Te Urewera was 'one of the least visited national parks in New Zealand'.⁵

While the 1980 Act preserved the 1952 Act's restrictions on hunting and gathering, there was recognition in the 1983 nationwide and 1989 park policies that customary gathering of plants might be allowed, with the prior approval of park management, provided plants were not rare or vulnerable, and demands 'not considered excessive'. In the Waikaremoana sector of the park, park staff authorised the Waikaremoana Maori Committee to give permission to those it approved to collect pikopiko and rongoa from 1986, but not for other plants. The use of horses to gain access to Maori land within the park and for wild animal control was confined to the Murupara and Taneatua sectors of the park.

16.3.4 Te Urewera National Park administration, 1990–present

The latest era in the administration of national parks began in 1990 when the Conservation Law Reform Act amended the Conservation Act and the National Parks Act by abolishing the National Parks and Reserves Authority and regional boards and replacing them with the New Zealand Conservation Authority and

5. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999* (Rotorua: Department of Conservation, 1989), p 32

regional conservation boards. These bodies, which have policy, planning, advisory, and monitoring responsibilities, have jurisdiction over a far broader range of public conservation lands than did their predecessors. For the first time, there is a statutory guarantee of Maori membership of the central body – the Conservation Authority. A number of conservation boards also have statutorily guaranteed Maori membership, but that is not the case for the board that has responsibility for Te Urewera National Park. From 1990 until 1998, that board was the East Coast Conservation Board but changes to conservancy boundaries have meant that, from 1998 to 2009, the park was in the East Coast Hawke's Bay Conservancy and, since 2009, has been in the East Coast Bay of Plenty Conservancy. In general, Tuhoe were represented by one or two members on each of these boards, while Ngati Kahungunu were represented by one member on the East Coast Hawke's Bay conservancy from 1999 to about 2002, and have not been represented on the other boards.

In the 1990s, a number of on-going formal and informal joint initiatives were established between DOC and local Maori. These included the Puketukutuku Peninsula Kiwi Restoration Project (which also involved Landcare Research up until 2002) at Lake Waikaremoana, the Northern Te Urewera Ecological Restoration Project mainly based in the Waimana Valley, a joint DOC and local hapu Aniwanuiwa Museum management and review team, and an informal cooperative agreement between local Maori and the Aniwanuiwa area office of DOC that allows hapu representatives from Ruatahuna and Waikaremoana to attend the area office's bimonthly project planning meetings. The latter initiative is sometimes referred to as 'the Aniwanuiwa model'.

In late 1997 and early 1998, a group of some 50 local Maori and their supporters – Nga Tamariki o te Kohu – occupied an area of the shore near Home Bay that had been exposed by the lowering of the level of Lake Waikaremoana. They cited DOC mismanagement of the local environment as a principal motivation. The Crown established a Joint Ministerial Inquiry (Conservation and Maori Affairs) in 1998 to investigate the grievances of Nga Tamariki o te Kohu with reference to DOC's management and also to identify processes to resolve the issues raised by the occupiers.

Originally called Urewera National Park, the park's name was changed to Te Urewera National Park in 2000. This change was first requested by a Tuhoe park board member in 1973. Throughout our discussion, we use the title Te Urewera National Park.

In 2003, the latest management plan for Te Urewera National Park was approved by the East Coast Hawke's Bay conservation board. For the first time, the plan recognises the peoples of Te Urewera as kaitiaki of 'nga taonga o Te Urewera'.⁶ The 2003 management plan also states that plant collection will only be authorised in 'special circumstances', but allows that a process may be established between

6. Department of Conservation, *Te Urewera National Park Management Plan*, East Coast Hawke's Bay Conservancy Management Planning Series 4 (Gisborne: Department of Conservation East Coast Hawke's Bay Conservancy, 2003), p37

Administrative bodies	Membership	Function
New Zealand Conservation Authority	<p>Thirteen members appointed by Minister of Conservation:</p> <ul style="list-style-type: none"> › Three Maori members, two of whom are appointed by the Minister in consultation with the Minister of Maori Affairs, and one nominated by Te Runanga o Ngai Tahu. › Two members, after consultation with the Minister of Tourism. › One after consultation with the Minister of Local Government. › Three on the recommendation, respectively, of the Royal Society of New Zealand, the Royal Forest and Bird Protection Society of New Zealand, and the Federated Mountain Clubs of New Zealand. › Four following a public notice and nominations process. 	<p>Adviser to Minister and Director-General of Conservation on public conservation areas. Functions include approving the strategies and plans for the management of public conservation areas and national parks, and undertaking certain investigative and advocacy functions.</p>
East Coast Conservation Board (1990–98)	<p>Up to 12 members, appointed by the Minister after a public notice and nominations process and after consultation with the Conservation Authority.</p> <p>No statutory Maori representation, but Tuhoë were at times represented by one member.</p>	<p>Policy, planning, monitoring, and advisory roles for the region's national parks and public scenic reserves.</p>
East Coast Hawke's Bay Conservation Board (1998–2009)	<p>Up to 12 members, appointed by the Minister after a public notice and nominations process and after consultation with the Conservation Authority.</p>	

No statutory representation for Maori, but Tuhoe were always represented by one or two members, and Ngati Kahungunu represented by one member from 1999 to circa 2002.		
East Coast Bay of Plenty Conservation Board (2009–present)	Up to 12 members, appointed by the Minister after a public notice and nominations process and after consultation with the Conservation Authority.	
Department of Conservation (Gisborne and, from 2009, Rotorua)	No statutory representation for Maori, but Tuhoe always represented by two members.	Management of conservation areas and Te Urewera National Park.
Minister of Conservation		Responsible for conservation lands and national parks; policy role exercised on advice of New Zealand Conservation Authority, and operational powers mostly delegated to Director-General of Conservation and exercisable consistently with park management plans.

Table 16.3: Te Urewera National Park Administration since 1990

the Department of Conservation and Maori that avoids the need for separate applications to be assessed for every instance of use. In 2005, the New Zealand Conservation Authority issued the most recent *General Policy for National Parks*.

16.4 THE ESSENCE OF THE DIFFERENCE BETWEEN THE PARTIES

16.4.1 Why and how was a national park established in Te Urewera?

The claimants' strong feelings about the establishment of a national park in Te Urewera were very evident in their submissions. Counsel for Wai 36 Tuhoe submitted that 'New Zealanders need to understand that this "national asset", Te Urewera National Park, was acquired through manipulation, deception and fraud. The Crown does not have clean hands when it comes to the UDNRA.⁷ In response, the Crown acknowledged that it purchased 'a significant proportion of the lands incorporated in Te Urewera National Park' between 1910 and 1921. It acknowledged also that it has conceded Treaty breach in respect of its purchasing shares in land within the Urewera District Native Reserve. The Crown award following consolidation, on the basis of that purchasing, 'forms a substantial portion of the current National Park'.⁸

The claimants further alleged that the decision to establish a national park in Te Urewera reflected the long-standing Crown perception of their lands as unspoilt scenic wilderness requiring preservation and protection. This focus, they submitted, disregarded the continued presence of the peoples of Te Urewera, and their existing relationship with the land, its waters, and its forests, even when their customary harvests were clearly sustainable.⁹ The establishment of Te Urewera National Park was a significant step in Government policy as the area now had a single purpose – water, forest, and soil conservation – rather than development and settlement.¹⁰ What is more, the area that made up Te Urewera National Park was now set aside in perpetuity for this single purpose.¹¹

The claimants all stated that the values underpinning a national park were foreign to them, and were imposed without taking into account the views of the peoples of Te Urewera, forcing them to adjust their tikanga.¹² For them, the national park represents the most significant of the Crown's imposition of foreign values upon them, in a history of such impositions.¹³ All claimants argued that the Crown

7. Counsel for Wai 36 Tuhoe, closing submissions, pt A, overview, 31 May 2005 (doc N8), p 42

8. Crown counsel, closing submissions (doc N20), topic 33, p 2, n1

9. Counsel for Wai 36 Tuhoe, closing submissions, pt B, response to statement of issues, 31 May 2005 (doc N8(a)), pp 189–190; counsel for Nga Rauru o Nga Potiki, closing submissions, 3 June 2005 (doc N14), pp 84–106

10. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 95; counsel for Wai 144 Ngati Ruapani, closing submissions, 3 June 2005 (doc N19), app A, p 128

11. Counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 128; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 95

12. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 189–190; counsel for Ngai Tamaterangi, attachment to closing submissions, no date (doc N2(a)), pp 106–107

13. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 75

failed to adequately consult them over the park's establishment in 1954 and again over its first significant expansion in 1957.¹⁴

The Crown, however, argued that the Government had consulted Tuhoe over the park's establishment, and had shown in doing so a pragmatic recognition of the need to win acceptance of the national park designation among the local Maori inhabitants. Since Maori were owners of adjacent land that was likely to be affected by the creation of the park, consultation was appropriate, 'even in the context of the time'.¹⁵

16.4.2 How has the national park affected the economic opportunities of Maori communities in Te Urewera?

The peoples of Te Urewera claim that the national park has unduly restricted the retention, development, and use of their land, while giving them very little economic opportunity.¹⁶ As counsel for Nga Rauru o Nga Potiki put it, the park is 'larger than its boundaries', and has made their land 'peripheral and subordinate to the main purpose of the entire region', which is conservation rather than development and settlement.¹⁷

The claimants argue that the Crown and the park board embraced a long-term policy of purchasing Maori land within or neighbouring the park, and made persistent efforts to acquire their land. Claimants generally criticised these attempts as inappropriate given the limited lands remaining to them. They criticised also the Crown's motives for trying to acquire more Maori land to add to the park – to avoid 'incompatible land uses' – and, in some cases also, its methods.¹⁸

Claimants contend that once the park board accepted that Maori land within and beside the park could not be acquired, it sought to restrict the land's development and use.¹⁹ One prominent restriction occurred through the Crown using the Soil Conservation and Rivers Control Amendment Act 1959 to prohibit or restrict the logging of Maori land within and beside the park.²⁰ Claimants stated that they were not compensated for being unable to realise their timber assets under the Act; failed compensation negotiations were predicated on the Crown acquiring

14. Counsel for Ngai Tamaterangi, closing submissions, 30 May 2005 (doc N2), p 67; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 189; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 109–110; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 129; counsel for Wai 36 Tuhoe, closing submissions in reply, 9 July 2005 (doc N31), p 51

15. Crown counsel, closing submissions (doc N20), topic 33, p 4

16. Counsel for Wai 621 Ngati Kahungunu, closing submissions, 30 May 2005 (doc N1), pp 167–168; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 195, 201; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 112; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), pp 61–62

17. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 95–96, 112

18. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8(a)), pp 201–202; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 112, 248; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), p 56, app A, pp 136, 145–146

19. Counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 140

20. Counsel for Tuawhenua, closing submissions, 30 May 2005 (doc N9), pp 290–291; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 177–178

the land in question in exchange.²¹ Claimants alleged other restrictions resulted from the park board ‘colluding’ or ‘working together’ with other Crown and local government agencies to restrict development on Maori land within and beside the park.²²

Consequently, the claimants’ view is that the Crown has ‘effectively included the whole of Te Urewera in the National Park’ without payment or compensation.²³ Counsel for the Wai 144 Ngati Ruapani claimants painted a picture of how the Crown’s restrictions have ‘hamstrung’ the use of the Waikaremoana reserves: their owners ‘couldn’t farm, hunt, or fish. They couldn’t mill, sell or lease their lands to raise any money.’²⁴ Furthermore, ‘the Crown prevented the permanent occupation of the land, the erection of dwellings, or any economic utilisation of the land, including efforts by the hapu of Waikaremoana to engage with the tourism trade.’²⁵ Overall, counsel for Wai 36 Tuhoe considered that ‘rather than lend assistance or support’ the Crown has ‘unsympathetically obstructed’ their attempts to develop their remaining lands, and has failed to meet its obligation actively to protect them in the development of their lands.²⁶

Claimants consider that the park itself has provided them with very few economic opportunities. They submitted that efforts by Maori to establish and operate commercial ventures using the park have been ‘thwarted’ or ‘frustrated’ by ‘restrictive policies.’²⁷ Counsel for Nga Rauru o Nga Potiki argued that before 1990, the park afforded only minimal employment for local Maori, apart from that available through temporary employment schemes, and that the employment offered by park administrators generally has largely been confined to Aniwanui, rather than elsewhere in the park. Claimants do acknowledge that, since 1990, DOC has made some efforts to increase the number of Maori staff.²⁸

The Crown denied all of these claims. Crown counsel accepted that efforts were made to acquire Maori land for the park, but said these only occurred ‘from time to time’ and that the dealings were appropriate under the National Parks Act 1952 and general policies. It denied undue pressure was ever exerted on any Maori owners to sell their lands, since land was not acquired if owners were not willing to sell. Crown counsel considers that these attempts to acquire Maori land have

21. Counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 147; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 183

22. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 194–195; counsel for Tuawhenua, closing submissions (doc N9), p 292; counsel for Tuawhenua, closing submissions (doc N9(a)), app A, p 137; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 112; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), p 59

23. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 65

24. Counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 101

25. *Ibid*, p 136

26. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 201–202

27. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 114; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 145. Also see counsel for Tuawhenua, synopsis of closing submissions, 10 June 2005 (doc N9(b)), p 28.

28. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 113, 121

had minimal impacts since only two blocks were ever purchased, 'partly due to financial constraints' for inclusion in the park.²⁹

The Crown rejects the claims that it placed 'severe restrictions' on the use and development of Maori land, 'although logging was regulated.'³⁰ Crown counsel denied that logging was prohibited as a result of the Soil Conservation and Rivers Control Amendment Act 1959, although certain areas of Te Urewera 'could be restricted as a result' of the Act's provisions 'to prevent erosion and flooding of lower catchment areas'. Despite these restrictions, Maori landowners of forest blocks obtained 'considerable economic benefits from their timber assets' and 'where restraints were imposed, compensation in the form of land purchase and land exchange was negotiated on occasions'.³¹

General policies stressed the threat posed to achieving national parks' purposes by 'incompatible land uses' of adjacent lands. As such, 'certain restrictions' were placed on Maori land within the park to ensure the protection of the national park through which the land is accessed. Crown counsel denied that there was any collusion between the park board and other agencies or that they 'worked together' to restrict development of Maori land adjacent to the park. Instead, the park board followed general policies that emphasised the need to seek cooperation with local authorities, Government agencies, and landowners to ensure compatible land uses of adjacent lands. Crown counsel also asserted, with regard to the proposal to develop the Waikaremoana reserves, that concerns about the impact of Maori land development upon the park were legitimate, and many Maori shared such concerns.³²

Crown counsel submitted that a Tuhoe owned and operated company has been awarded commercial concessions on a 'preferential basis'. Crown counsel denied all claims regarding employment. Counsel argued that the peoples of Te Urewera have not been excluded from employment in the park, and while DOC appointments are based on merit, it has involved kaumatua in staff selection processes. Local Maori currently hold 40 per cent of staff positions in Te Urewera and at Aniwanuiwa.³³

16.4.3 Did the Crown purchase Manuoha and Paharakeke from informed and willing sellers, and was the purchase fair in all the circumstances?

Claimants submitted that they were forced to sell the Manuoha and Paharakeke blocks to the Crown for inclusion in the park in 1961.³⁴ Counsel for Wai 621 Ngati Kahungunu claimants argued that the owners agreed to sell the cutting rights to the land to a private timber company in 1960, but they were 'effectively blocked' from selling their timber by the Crown as ministerial approval for the agreement

29. Crown counsel, closing submissions (doc N20), topic 33, p 18

30. *Ibid*, p 19

31. *Ibid*, topic 39, p 24

32. *Ibid*, topic 33, pp 19–20

33. *Ibid*, p 7, topic 40, p 4

34. Counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), pp 97, 152; counsel for Ngai Tamaterangi, closing submissions (doc N2), p 50

was not granted. This was because the Crown wanted to appease public opinion, prevent logging, prevent erosion and environmental damage, and include the land in the park.³⁵ Counsel for Ngai Tamaterangi claimants also noted the Crown placed a notice under section 34 of the Soil Conservation and Rivers Control Amendment Act 1959 on the blocks in 1961 which also prevented the owners from logging timber on the blocks.³⁶ Claimants contended that the owners were not informed by the Crown about 'the true valuation of the land' and as a result they accepted a sum 'significantly lower than the market value' of £140,000 for the land and timber, unaware of the higher Crown valuation of £160,000 for the land.³⁷ Counsel for Ngai Tamaterangi claimants subsequently argued the Crown 'failed to discharge its duties to act in good faith' and further submitted that earlier Crown valuations placed even higher value on the land and timber, namely £250,000 in 1956 and £435,000 in 1959.³⁸

Counsel for Te Whanau a Kai concluded: 'The owners sold because they were unable to gain economic benefit from the forests located on the block and Dr Neumann's evidence indicates that the price paid in 1961 was significantly less than market values.'³⁹

The Crown denied that the owners were forced to sell the blocks – the owners freely made a decision to sell the blocks to the Crown in the interests of conservation.⁴⁰ The owners requested that the Crown purchase the blocks because they believed 'milling of the timber on those blocks was likely to cause erosion and flooding problems downstream.'⁴¹ Crown counsel submitted that negotiations between the owners and the Crown began before a notice was issued under the Soil Conservation and Rivers Control Amendment Act 1959, and when the notice was issued, it was not a factor in the negotiations.⁴² Crown counsel acknowledged that public pressure was 'a factor' in the Crown deciding to purchase the blocks, but argued that the 'driving force' was genuine official concern over the potential for erosion.⁴³ Crown counsel also denies that they did not inform the owners about the valuation of the land and the timber, as 'the basis of the valuation of the blocks was clearly explained to the representatives of the owners' and the owners voted to accept the offer. Furthermore, the Crown's 'fair valuation' offered a 'reasonable price', as earlier valuations had overestimated the amount of timber on the land.⁴⁴

35. Counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), pp 152, 164

36. Counsel for Ngai Tamaterangi, closing submissions (doc N2), p 51

37. Counsel for Te Whanau a Kai, closing submissions, 30 May 2005 (doc N5), p 42; counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), p 97; counsel for Ngai Tamaterangi, closing submissions (doc N2), pp 51–52

38. Counsel for Ngai Tamaterangi, closing submissions (doc N2), pp 50, 52

39. Counsel for Te Whanau a Kai, closing submissions (doc N5), p 42

40. Crown counsel, closing submissions (doc N20), topic 16, p 92

41. *Ibid*

42. *Ibid*, citing Klaus Neumann, "'... That No Timber Whatsoever Be Removed': The Crown and the Reservation of Maori-Owned Indigenous Forests in the Urewera, 1889–2000" (commissioned research report, Wellington: Waitangi Tribunal, 2001) (doc A10), p 183.

43. Crown counsel, closing submissions (doc N20) topic 31, pp 29–30

44. *Ibid*, introduction to submissions, p 35, topic 16, p 9

16.4.4 How has the national park affected the ability of Te Urewera peoples to continue their customary uses of park lands and their exercise of kaitiaki responsibilities?

The claimants submitted that the National Parks Act 1952 did not ‘contemplate the continued presence of Maori communities within national Parks, nor the continuation of Maori customary harvests, even when those harvests are clearly sustainable.’⁴⁵ The Act made the customary harvest of native plants an offence unless authorised by a park board. The narrow focus on public use of national parks for non-consumptive tourist and recreational activities has caused added restrictions in Te Urewera, such as the curtailment of local hunters’ customary use of horses and pig dogs.⁴⁶

The claimants compare the Crown’s promise of self-government, made to their tipuna, with their own subjection to a ‘permit culture’ where special exemptions to park rules must be obtained in order to maintain their way of life in their traditional communities. Even now, when customary uses of indigenous plants are allowed if certain criteria are met, the exercise of such rights remains ‘entirely at the discretion’ of the Department of Conservation, which implements park policy.⁴⁷ Similarly, the traditional use of horses and dogs on the lands that now comprise the park is limited by legislation and policy that favours other park users, although other users do not depend on the park to maintain their lifestyle and culture.⁴⁸

It is not only ‘consumptive’ customary practices that have been restricted by park values and administration: the preservation of tangata whenua history, names, sites of significance, artefacts, and other taonga has also suffered.⁴⁹ Claimants submitted that the interpretation of the history of Te Urewera has focused unduly on colonial interaction with the area, that taonga have been vandalised, stolen and, in some cases, exhibited without claimant permission, and that there has been inappropriate publication of the location of sites of cultural significance such as urupa.⁵⁰ Furthermore, claimants argued that the Crown has failed to prevent the public from trespassing on Maori land within and adjacent to the park, and has failed to adequately delineate the boundaries between the park and Maori land.⁵¹

45. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 189

46. Brad Coombes, ‘Preserving a “Great National Playing Area” – Conservation Conflicts and Contradictions in Te Urewera, 1954–2003’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), p 9 (counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 190)

47. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 197

48. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 120

49. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 200

50. *Ibid*; counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 77; counsel for Tuawhenua, closing submissions (doc N9), p 293; counsel for Tuawhenua, appendix to closing submissions (doc N9(a)), p 183; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), p 59

51. Counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p 143; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 202–203; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 118, 241

In general, the claimants do not see their situation as having been much improved over the years, despite the changes that have been made to the national parks' regime. They argue that the National Parks Act 1980 has the same policy underpinnings of preservation of 'scenery . . . ecological systems, [and] natural features' and the same objectives of furthering a perceived national interest and public access.⁵² The Conservation Act 1987 similarly adopts preservation policies that are 'essentially western derived and inherited regimes'.⁵³ It makes 'no significant move towards expressly incorporating a Maori ethic into the practice of conservation'. In contrast to the Maori environmental ethic, 'human use and impacts are viewed as environmentally damaging'.⁵⁴

The Crown denies that it ever placed 'severe restrictions' on cultural practices.⁵⁵ Crown counsel acknowledged that in the 30 or so years before the national park was created, there were few restrictions imposed on the use of the Crown's lands in Te Urewera. With regard to customary harvests of indigenous plants, counsel submitted that similar latitude continued until the 1980s, when the law itself became more tolerant.⁵⁶ Customary harvesting was allowed in the earlier period of the park's operation, counsel maintained, because even before national policy gave it limited recognition, the park board exercised a degree of latitude in its response to requests for access to customary resources.⁵⁷ Although the governing legislation provides for the protection of indigenous plants, it has always allowed customary harvests with the prior written consent of the Minister of Lands or his successor (from 1987), the Minister of Conservation.⁵⁸ A procedure has always existed, therefore, for access to customary resources to be gained and, more recently, access has expanded with the development of a national policy that provides for limited cultural harvesting in national parks.⁵⁹ But there is a 'delicate balance between protection and take' and so 'there is no "right" to a continual harvest. Permits must be granted by DOC for certain species to be harvested'.⁶⁰ In similar vein, the Crown submitted that park management took account of traditional uses of horses and dogs even when nationwide policies did not recognise those uses.⁶¹ Crown counsel denied that it has not taken reasonable steps to stop trespass onto Maori land within and beside the park. Counsel stated 'the Crown cannot reasonably be expected to "ensure" protection of such a large area, within resource constraints and subject to the actions and will of private individuals'.⁶²

52. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 98

53. *Ibid* p 103

54. *Ibid*, p 105

55. Crown counsel, closing submissions (doc N20), topic 33, p 19

56. *Ibid*, p 14

57. *Ibid*

58. *Ibid*, p 16

59. *Ibid*, pp 14, 16

60. *Ibid*, p 17

61. *Ibid*, p 9

62. *Ibid*, p 20

The Crown's response to more recent claims about national park administration emphasises the changes that have occurred since 1987, with the enactment of the Conservation Act and the creation of the Department of Conservation. Tangata whenua are now formally recognised as kaitiaki of the taonga of Te Urewera and are accorded a status above that of other citizens but, the Crown submits, claimants have not taken sufficient account of the impact this has had on the park's administration.⁶⁵ For example, Crown policy and practice is now 'committed to interpreting sites of significance to Maori only with their agreement and assistance'.⁶⁴ The Crown also detailed the legislative protection now afforded to Maori artefacts and wahi tapu, submitting that it is consistent with the Crown's article 2 obligations.⁶⁵

16.4.5 To what extent have the peoples of Te Urewera been represented or otherwise involved in the governance, management, and day-to-day administration of Te Urewera National Park?

All claimants contended that they have been largely or totally excluded from the management and operations of Te Urewera National Park.⁶⁶

Before 1962, claimants argued, there was no consultation at all with local Maori in respect to park management.⁶⁷ Claimants argue that there has not been 'adequate Maori representation' on the various boards that have been responsible for managing Te Urewera National Park from 1962.⁶⁸ Tuhoe claimants submitted that although there has been Tuhoe membership on these boards since 1962, this has not reflected the importance of their interests in Te Urewera.⁶⁹ They consider it significant that the Crown failed to give statutory membership to Tuhoe on these boards; instead, they asserted, the composition of the park board and its successors has been weighted against Tuhoe.⁷⁰

63. *Ibid*, pp 3, 14

64. *Ibid*, topic 40, p 5

65. *Ibid*, pp 8, 11

66. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 110–114; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 153, 190–193; counsel for Tuawhenua, closing submissions (doc N9), pp 290–291; counsel for Ngati Haka Patuheuheu, submissions in reply, 8 July 2005 (doc N25), p 62; counsel for Wai 621 Ngati Kahungunu, written synopsis of closing submissions (doc N1), p 167; counsel for Ngai Tamaterangi, closing submissions (doc N2), p 67; counsel for Ngai Tamaterangi, attachment to closing submissions (doc N2(a)), pp 107–108; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, pp 130–131, 133–135

67. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 75; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 191; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 111–112

68. Counsel for Wai 621 Ngati Kahungunu, written synopsis of closing legal submissions (doc N1), p 167

69. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 110; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p 190

70. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 75; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 190, 193; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 111

Claimants criticised the incorporation of Te Urewera National Park into regional boards from 1980 which, they claim, have rendered ‘park management as a remote and alienating force which is insensitive to local contexts.’⁷¹ Counsel for the Wai 621 Ngati Kahungunu claimants submitted that ‘the Crown’s establishment of an East Coast Conservancy . . . placed tangata whenua input into the Park Board at arm’s length with the result that again rangatiratanga was diluted, and central Crown authority expanded.’⁷²

Claimants submitted that the input of the peoples of Te Urewera into park management plans has been ‘limited at best’, and the consultation process conducted for these plans ‘has been dominated (numerically) by the submissions of civic, recreation and conservation groups.’⁷³ Increased consultation with Tuhoe over the 2003 management plan has not substantially changed the park’s ‘underlying policies’, and counsel for Wai 36 Tuhoe argued that Tuhoe need to be actively involved from the outset in the development of these plans, and the management of the park generally.⁷⁴

Claimants asserted that the Conservation Act 1987 has made very little change to the overall relationship between Crown and Maori, despite the requirement that the Act be interpreted and administered so as to give effect to the principles of the Treaty.⁷⁵ Claimants argued that the legislative requirement that the Department of Conservation ‘give effect’ to Treaty principles should involve much more than mere consultation, and establish genuinely participatory approaches.⁷⁶ ‘Novel approaches to collaborative management’ have evolved at Aniwanuiwa in recent years, but claimants contend they are limited because they depend on the goodwill of local Department of Conservation staff and their ‘intimate relationships’ with local Maori rather than any change in departmental policy: the approaches are not integral to the philosophy and management of the department, and ‘all key decisions remain the preserve of the Crown.’⁷⁷ Counsel for Nga Rauru o Nga Potiki claimants added that the innovation has not been extended to all areas of the park.⁷⁸ Overall, counsel for Wai 36 Tuhoe submitted that ‘the National Park has never embraced Tuhoe as an equal partner.’⁷⁹

71. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p111

72. Counsel for Wai 621 Ngati Kahungunu, written synopsis of closing legal submissions (doc N1), p9

73. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp153, 191; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, p135

74. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8); counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p192

75. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), pp75–76; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p193; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, pp135–136; counsel for Tuawhenua, closing submissions (doc N9), p292

76. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p192; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, pp136, 147

77. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p110; counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, pp147–150; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp193, 203

78. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p110

79. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p75

The Crown's view is that there has been 'effective representation and active participation by Tuhoe' in the administrative bodies of the park. Even in the early period, there was a Tuhoe presence on the park board despite the absence of any statutory requirement for their representation. The Crown submitted that Tuhoe members of the park board won 'important concessions' and ensured that 'Tuhoe did not become invisible to Park administration (even when there was no formal process for tangata whenua involvement in Park affairs)'.⁸⁰ The Government's decision in the 1970s and 1980s not to guarantee Maori representation by statute was made because the existing situation was 'sufficient' and because of concern over how to represent 'the range of Waikaremoana iwi and hapu'.⁸¹ Overall, 'representation on boards and informal involvement has been substantive and provisions for participation have increased over time,' particularly since 1980.⁸²

Crown counsel submitted that there is insufficient evidence for the claimants' argument that the involvement of third parties – such as environmental and recreational groups – in the development of park policies and plans 'has been at the expense of Urewera Maori'.⁸³ The park's management plans have all reflected years of interaction between park administrators and local Maori (including their representatives on the board), and as a result the park's plans have been considerably ahead of general policies in taking account of the interests of the peoples of Te Urewera.⁸⁴

The Crown rejected the claim that, since the Conservation Act 1987, little fundamental change has occurred. Crown counsel submitted that 'since the Conservation Act 1987, significant and consistent efforts have been made to improve consultation processes with Maori in respect of management of the park, including plans'.⁸⁵ DOC has given effect to the principles of the Treaty and the formal status of the peoples of Te Urewera as kaitiaki of the park when administering the park.⁸⁶ The Crown contended that substantial consultation with local Maori has taken place, and that at Aniwanuiwa, participation by local Maori has moved beyond consultation, to community involvement and partnership.⁸⁷

16.5 WHY AND HOW WAS A NATIONAL PARK ESTABLISHED IN TE UREWERA?

SUMMARY ANSWER: The Crown was able to decide when and how to create a national park in Te Urewera because by 1930 it owned a very large block of land (some 400,000 acres) there. The greater part had been acquired through massive, predatory, and at times illegal purchasing of owner shares in the Urewera District Native Reserve in the early twentieth century. In 1921, the Crown decided

80. Crown counsel, closing submissions (doc N20), topic 33, p 7

81. *Ibid*, p 6

82. *Ibid*, p 11

83. *Ibid*, p 10

84. *Ibid*, p 9

85. *Ibid*, p 8

86. *Ibid*, p 14

87. *Ibid*, pp 7, 11

on a large-scale consolidation scheme to separate the interests it had purchased in many blocks from those of the Maori owners, and consolidate them in one large block. It had intended to use the land it acquired for farming settlement, but abandoned this aim by 1924 when it was clear there was no market for the land and – as was finally admitted – the land was totally unsuitable for clearance and farming on a substantial scale. In the 1950s the Crown created Te Urewera National Park in two stages (1954 and 1957), bringing in most of this former Reserve land, as well as some 20,000 acres of land within three of the former ‘four southern blocks’ to the south-east of Lake Waikaremoana, which had been wrongly acquired from its Maori owners in the mid-1870s. The origins of most of the park land thus lay in Crown purchase from individuals belonging to Maori communities established in the Reserve for many generations, and in the resulting consolidation scheme which saw their main settlements become islands in the large block of land awarded to the Crown. Once the national park was created, and extended, the settlements were dwarfed by the park.

Te Urewera National Park was established under the National Parks Act 1952, the first Act which centralised the administration of national parks, and laid out a coherent rationale for them. The Act reflected a longer tradition of official protections for scenic areas, natural features, and indigenous flora and fauna developed since the late nineteenth century in response to small but enthusiastic groups who wanted to preserve unique species and landscapes for posterity. Preservationists also encouraged the official creation of nature reserves and the setting aside of large ‘wilderness areas’ as places of retreat. Maori concerns, their relationships with the natural world, and their sustainable use of its resources were often ignored or dismissed. By the early 1940s, New Zealand had four national parks: Tongariro (1894), Egmont (1900), Arthur’s Pass (1929), and Abel Tasman (1942). A pragmatic approach was taken to reserves and parks with certain activities considered acceptable for public enjoyment, recreation, and tourism, such as hunting of introduced game animals, and provision of accommodation and recreational facilities; while permanent settlement and activities such as removal of plants and other materials were not.

Parts of Te Urewera district were identified by colonists and officials as having scenic and recreational values from the late nineteenth century, and a national park was proposed several times but not proceeded with. Alternative models were considered in the mid-1930s, when the Crown was investigating how to best use the large Crown award it had secured from the Urewera Consolidation Scheme. At the time, there was some consideration of the fragile economic position of Maori communities in Te Urewera. But forest catchment protection, scenic landscapes, indigenous plants and animals, and recreation were confirmed as important protection issues to be balanced against the economic value of milling timber, including timber on lands retained by local Maori communities. A proposal for a national park was rejected at this time in favour of Forest Service management.

In the early 1950s, the national park proposal was raised again, this time in a rather different context. Alongside a boom in demand for timber there was a growing public movement to save important remaining areas of indigenous

forests, combined with concerns to protect important catchment forests to prevent flooding and destruction of productive downstream farmlands. Influential interest groups emphasised all these issues. The Government itself placed great importance by this time on protecting watersheds for water and soil conservation. There was thus political support for new National Parks legislation. The National Parks Act 1952 clarified the principles and aims of national parks and established a new overarching National Parks Authority to guide policy, on which interest groups were to be represented. A new cluster of national parks were established under the Act, including Te Urewera (1954), originally known just as Urewera National Park.

Ernest Corbett, Minister of Lands, Forests, and Maori Affairs in the National Government, was persuaded at this time that a national park, which offered the highest form of State protection for forests, was required for Te Urewera. He did not consult with the peoples of Te Urewera over the Act or his proposal for a national park. Corbett was determined from the outset to have a large national park in the area, and never changed his mind. He was never prepared to consider alternatives (as he was at the same time for Tararua, which became a forest park – allowing for a range of public uses). And he never considered what a park might mean for traditional uses of its resources by Maori. The new National Parks Authority did resist Corbett's pressure initially, recommending a considerably smaller national park area for Te Urewera than he had wanted. This was centred on the scenic landscapes, important catchment forests, and water supplies of the Waikaremoana area. The authority also recommended the Minister should ask Te Urewera peoples for a name for the park. But it did not consult with Maori either, though it is evident that one of the reasons it decided against recommending a larger park was the proximity of Maori land and settlements to such a park. It did, however, flag its intention of extending the park in future.

Armed with the authority recommendations but aware of some Tuhoe disquiet about the park, Corbett finally met face to face with Tuhoe at Ruatahuna in late 1953. Here he heard first-hand the people's determination to retain their remaining land and the critical importance of their timber to their economic survival. Tuhoe were prepared to assist the Crown in its soil and water conservation objectives, and in preserving scenery, but they were also worried about the impacts of an extensive national park, particularly on their plans to mill timber on their own lands for their livelihoods. Corbett was prepared to agree that Maori had a right to exercise their development rights in a controlled way. A new policy framework was agreed for classifying Tuhoe lands according to whether they could be milled and then farmed, milled only, or their forests left intact. The Crown would compensate for restricted milling by offering Crown lands in the area in exchange. Corbett did not, however, discuss what a national park administered under the new Act might mean for local communities, and he left it to officials to raise the proposed park name at a later meeting in early 1954. In July 1954, the smaller area was gazetted a national park under the 1952 Act.

Within three years, however, the park area was substantially expanded, this time including the greater part of the remaining Crown land (330,000 acres), except for some State forest areas. Corbett's Land Use Committee and its land classification

exercise turned out to be a short-lived, if welcome, interlude of Government recognition for Tuhoe interests – which did allow owners to mill most of the land classified for that purpose. But the Crown soon had to acknowledge it did not have enough suitable land to exchange to allow Tuhoe to farm elsewhere in the district. By 1955, it reverted to a policy of further purchase of Maori land, contrary to Tuhoe understandings, and regardless of Tuhoe wishes to remain on their ancestral lands, and sustain their whanau. The Crown was not able to buy land, however, or convince some owners that they should not mill their own lands if they wished to. By mid-1957, it faced conflicting pressures. A Native Land Court decision upheld the right of Maori owners (if all agreed) to mill their lands, since the Land Use Committee's classifications had no legal standing. At the same time, recreational interest groups urged the Minister to answer their concerns that no further milling should take place in Te Urewera. The Government response was to bring the greater part of its land into the park, and at the same time to settle Tuhoe's long-standing grievance over unbuilt arterial roads, towards whose cost they had contributed a great deal of land. Land was not returned, as Tuhoe had wanted – which would not have made sense to a Government anxious to acquire more Maori land – but monetary compensation was paid. These two moves, it hoped, would ensure Maori willingness to sell their own forested lands, so that they could be added to the park. Tuhoe were not consulted about the decision to expand the park, but were later informed of it. This new large extension was gazetted in November 1957. The park now enclosed or abutted remaining Maori land and settlements. The existence of a large national park established under legislation which had no formal requirements to take account of Maori interests, and based on assumptions that their remaining lands and settlements were an 'anomaly' that did not 'belong' in a national park, had major implications for the peoples of Te Urewera, especially Tuhoe.

16.5.1 Introduction: why a national park?

Te Urewera National Park is so well known, and seems so long established, that it might be assumed that the large block of Crown land there (several hundred thousand acres) was always destined to be a national park. But it was not.

The park was established under the National Parks Act 1952, the first Act which centralised the administration of national parks, and laid out a coherent rationale for them. This came from a longer tradition of developing State and local concern for protection of New Zealand natural areas and resources. From the late nineteenth century there was a growing interest among settlers in preserving scenic and natural areas. This drew on both 'New World' influences, particularly the creation of Yellowstone National Park in the United States in 1872, and on home-grown concerns that the spread of settlement was beginning to threaten New Zealand natural areas and native species. The tradition of setting aside reserves and domains for various practical purposes, such as river protection and the management of catchment or 'climatic' forests, was expanded to include protection of remnant native plants and birds (in off-shore sanctuaries) and remaining New Zealand wilderness landscapes. By the 1890s scenic areas were considered

especially important for tourism, but increasingly also to protect unique landscapes deemed important for all New Zealanders. New Zealand's first national park was set aside in 1894.

There was also a long-standing colonial interest in the scenery of Te Urewera, especially the beauty of Lake Waikaremoana and the surrounding area. In the 1930s, serious attention was again given to State protections for the landscapes and forests of the district. By this time the Crown had emerged from the Urewera Consolidation Scheme with a vast tract of land, the outcome of years of illegal purchasing of individual shares in many Maori blocks, in defiance of the provisions of the UDNR Act 1896. Its original plan of using the Crown land for farm settlements had been abandoned by 1924 as unrealistic. At this time, the possibility of a national park was considered by officials – and rejected. For the time being, active Forest Service management for a mix of protection and commercial activities was considered the best option. Management aims included control of the catchment forests for water supply, erosion prevention (to protect downstream productive Bay of Plenty farmlands), and hydro-generation purposes, protection of scenic areas for tourism, and careful regulation of what was now a major source of indigenous timber, while also making provision for the economic needs and property rights of local Tuhoe landowners and communities. The pressures on this kind of management increased substantially in the later 1940s. A boom in demand for indigenous timber increased concerns about soil erosion and flood protection, and there was growing public pressure, spearheaded by various interest groups, to preserve remaining forest wilderness areas.

We consider the passing of the National Parks Act 1952 and the creation of Te Urewera National Park in this context. Why, by 1952, was a national park already being proposed as the most suitable form of protection for the forests of this area even while other kinds of protection for similar purposes were being proposed for other districts? How far was there consultation with Te Urewera communities about the creation of the park? Why was the park created in two main stages: the first, smaller park area, gazetted in 1954, based around Lakes Waikaremoana and Waikareiti; the second, in 1957, involving a major expansion to the park, with the inclusion of the greater part of the Crown land (over 300,000 acres) that had been left out in 1954. We consider, above all, how far the decisions about a national park were affected by the presence of resident Maori communities in the district and by Crown recognition of its responsibilities to them. Such communities were perceived as a complication that sat uneasily with official and public perceptions of national parks. How did the Crown respond to the pleas of Tuhoe that their interests and future must be considered too?

16.5.2 The origins of national parks: the development of official protections for parks and reserves

Te Urewera National Park was created in 1954. Already by then there had been a series of much smaller reserves created in the district for scenic and forest reserve purposes. But this did not mean that in the 1950s a national park was the only or best available option to meet Crown or public concerns about Te Urewera, or to

allow for the possibility of Te Urewera communities maintaining their long-standing relationships with park lands and their sustainable use of its resources.

National parks developed from official ideas of the kinds of State protection that could be offered for natural areas, resources, and scenic landscapes. Parks were in fact just one form of officially recognised protection. The dominant colonial approach to natural areas in New Zealand had always been that they needed to be ‘broken, tamed and turned over to productive use’.⁸⁸ Nevertheless, there was also an acknowledgement that certain natural areas required protection, generally for practical purposes, such as safeguarding water supplies and preventing flooding of productive lands (by preserving ‘climatic’ forests); but also for public enjoyment and as places for sport and recreation. A system of officially set aside public domains, reserves, and parks reflected this, and was enshrined in legislation such as the Public Reserves Act 1881 and Public Domains Act of the same year. This kind of legislation provided for the administration of reserves in ways that reflected the concerns of colonists. Reserves were ‘set aside’ for temporary uses but were not to be lived in. Removal of materials and plants was often prohibited, but some activities, such as recreation and hunting and providing for tourists, were considered acceptable. By contrast, there were also large areas of Crown land in many rugged, still-forested areas, widely used by both colonists and Maori for hunting, and administered with a light hand.

While the destruction of forests to clear land for farming continued at pace, some colonists began to appreciate that native species, natural resources, and picturesque local landscapes might disappear in the face of unrestrained settlement. Support grew for more official protections, and for closer management and ‘wise use’ of natural resources to ensure they were safeguarded for the future. Within this wider movement, there were also those who called for preservation of native birds and plants, and scenic areas, for their own value.⁸⁹ Preservationist views were initially most enthusiastically supported in New Zealand by middle-class men – politicians, lawyers, and businessmen, as well as some scientists and surveyors.⁹⁰

From the later nineteenth century, preservationists encouraged the official creation of ‘nature reserves’ and sanctuaries and also the setting aside of large ‘wilderness areas’ to remain ‘untouched’ by the inexorable spread of settlement and, indeed, all human ‘interference’, as places primarily of retreat and enjoyment.⁹¹ These ideas were encouraged by a combination of home-grown and imported ideas. Natural and wild places were confirmed as places not for habitation, but as

88. Michael Roche, *History of New Zealand Forestry* (Wellington: New Zealand Forestry Corporation Ltd, 1990), p 402

89. Paul Star, ‘Humans and the Environment in New Zealand, c. 1800 to 2000’, in *The New Oxford History of New Zealand*, ed G Byrnes (Auckland: Oxford University Press, 2009), p 62

90. Paul Star and Lynne Lochhead, ‘Children of the Burnt Bush’, *Environmental Histories of New Zealand*, ed Eric Pawson and Tom Brooking (Auckland: Oxford University Press, 2002), p 124

91. Geoff Park, ‘Effective Exclusion? An Exploratory Overview of Crown Activities and Maori Responses concerning the Indigenous Flora and Fauna, 1912–1983’ (commissioned research report, Wellington: Waitangi Tribunal, 2001) (Wai 262 R01, doc K4), pp 336–337

retreats 'for mental and spiritual rejuvenation where physical recreation could . . . take place'.⁹²

The creation of Yellowstone National Park in North America in 1872, the first 'national park' in the world, described as a 'vast wildlife reserve' with a quite magnificent terrain of 'roaring geyser basins, mountains of black glass, travertine terraces, canyons of coloured earth', was welcomed by influential public figures in New Zealand. William Fox, a former Premier, admired the way the United States Government 'had legislated to turn Yellowstone into a "public park" to protect the area from the blight of entrepreneurs exploiting the natural beauty of the surroundings'. The park was set aside under federal law, reserved 'from settlement, occupancy, or sale . . . and dedicated and set apart as a public park or pleasuring-ground for the benefit and enjoyment of the people'.⁹³ In the mid-1870s, Fox urged New Zealand to do the same – his first concern being the 'hot springs' district of the central North Island.⁹⁴ He was not as successful in this as he had hoped. Nevertheless, these ideas helped influence new legislative protections; the Land Act 1885 contained provisions for designating mineral springs and 'natural curiosities' as reserves.⁹⁵

Home-grown influences also helped encourage further official protections of natural areas and indigenous plants and animals. Among these was the advocacy of influential Canterbury preservationist and runholder Thomas Potts, who was active in calling for protections as early as the 1850s. In 1878 and 1882, Potts proposed a system of 'national domains', including a mix of production forests, forest reserves (as nurseries and store houses for New Zealand flora and for the protection of soil and water catchments), and refuges or sanctuaries for native plants and animals (where hunting would be prohibited and exotic animals excluded).⁹⁶ From the early 1890s, more kinds of reserves and sanctuaries were established, many on offshore islands, along with protections for indigenous birds and plants, and separate measures for scenery preservation. New Zealand's first national park, Tongariro, was created by Act of Parliament in 1894. This was not a wholly Pakeha enterprise. It is well known that Ngati Tuwharetoa played a crucial role in its formation. Ngati Tuwharetoa ariki Horonuku Te Heuheu made a tuku of the peaks of the Ruapehu and Tongariro mountains in 1887, in circumstances which have been considered in detail by the Waitangi Tribunal in its National Park inquiry.⁹⁷ This early leadership resulted in a strong connection between Ngati Tuwharetoa and Tongariro National Park, which the Crown has long acknowledged. The Tongariro

92. Tony Walzl, 'Waikaremoana: Tourism, Conservation & Hydro-Electricity (1870-1970)' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A73), p 31

93. David Thom, *Heritage: The Parks of the People* (Auckland: Lansdowne Press, 1987), pp 22-24

94. M M Roche, 'A Time and Place for National Parks', *New Zealand Geographer*, vol 43, no 2, October 1987, p 104

95. Star and Lochhead, 'Children of the Burnt Bush', p 123

96. Roche, *History of New Zealand Forestry*, p 402; David Young, *Our Islands, Our Selves: A History of Conservation in New Zealand* (Dunedin: University of Otago Press, 2004), pp 74-77

97. Te Heuheu Tukino to Ballance, Native Minister, 23 Hepetema 1887 (and translation), 'Tongariro and Ruapehu National Park (correspondence relative to a gift of portion of)', AJHR, 1887, G-4, pp 1-2

National Park Act 1894, formally establishing the park, thus provided for continuing Ngati Tuwharetoa representation among trustees on the park board. But we note that despite this important initiative by the iwi, the same legislation continued preservationist assumptions that a national park would be ‘untouched’ by human settlement. The preamble recorded that the ‘residue’ of Ngati Tuwharetoa lands within the park boundary were ‘of no use or benefit to the Native owners’ and were being acquired ‘from time to time’ by the Crown by purchase for implementing ‘the intention of the original gift’. Section 3 provided that all persons who located or settled upon what were now considered park lands would, in general, be treated as trespassers and removed.

By 1920, the Scenery Preservation Board alone (established under the Scenery Preservation Act 1903) had set aside hundreds of thousands of acres as reserves, some of which would later be incorporated into national parks.⁹⁸ And more national parks were also created in the period from 1900 to the early 1940s: Egmont (1900), Arthur’s Pass (1929), and Abel Tasman (1942).⁹⁹

Alongside this expansion in protected natural areas, further links were made between preservation and landscapes and flora and fauna of ‘national’ New Zealand importance. This was linked with a growing sense of nationhood and national pride among colonists. Scientists tapped into this sentiment, arguing for preservation of national parks and reserves in a natural state, free of introduced exotics. By the 1920s, links between national identity and native flora were being made more explicit – as in the call by a member of Parliament in 1922 for ‘our beautiful native vegetation in our national parks’ to remain undisturbed.¹⁰⁰ They were also being promoted by prominent New Zealanders such as James Cowan who wrote in 1925 that: ‘landscape beauty is bound up with the soul of a country’. And national parks should be treasured as much for New Zealanders as tourists since ‘they make a definite impress on our spirit of nationhood.’¹⁰¹

The growing public acceptance of these arguments meant that earlier ideas of ‘improving’ national parks with introduced species came to be considered increasingly inappropriate. The planting of heather in Tongariro National Park from 1916 is a well-known example of an act by a warden that was later singled out as quite inappropriate. He had hoped, with prime ministerial support, to establish grouse shooting in the park to help encourage tourists. The grouse shooting did not succeed, but the heather soon ‘overwhelmed the indigenous plants of the tussock grasslands.’¹⁰² The detrimental impacts of introduced animals such as deer, possums, chamois, goats, and thar on forest ecosystems, including national parks, were increasingly recognised by the 1920s and 1930s, although for some time,

98. Thom, *Heritage*, p 124

99. Department of Statistics, *New Zealand Official Yearbook 1990* (Wellington: Department of Statistics, 1990), pp 428–430

100. WH Field, 17 October 1922, NZPD, vol 198, p 231 (Thom, *Heritage*, p 134)

101. James Cowan, *New Zealand Life*, vol 1, no 8, 1925, p 3 (Star and Lochhead, ‘Children of the Burnt Bush’, p 132)

102. Park, ‘Effective Exclusion?’ (Wai 262 ROI, doc K4) pp 340–341

Government agencies were often reluctant to act against exotic game animals.¹⁰³ In 1926, the Under-Secretary for Lands and Survey rejected an approach by the aristocratic English group, the Society for Preservation of the Fauna of the Empire, to consider stocking New Zealand's national parks with various African and North American animals, stating that: 'Our National Parks are in effect sanctuaries for the Dominion's indigenous plants and animals, and the established policy is to strictly preserve them as such.'¹⁰⁴

The assumptions driving preservationist ideas of 'untouched' wilderness and natural areas of national importance beyond the bounds of colonial settlement had major implications for Maori. They had been settled on many of these lands for centuries and their communities remained closely bound to them and dependent on their resources, even more so as their holdings were reduced as Pakeha settlement expanded. Their place in a preservationist worldview was unclear. Idealised views of wilderness landscapes seldom addressed the question of how indigenous peoples might continue to sustain themselves there.

In the 1930s, recreation, preservationist, and scientific interest groups continued to press for official protection of parks, reserves, sanctuaries, and scenic areas of national interest and often reached a common view of what might be appropriate activities in these areas. The Federated Mountain Clubs (formed 1931), 'representing the largest number of park users and knowledgeable enthusiasts – the trampers and climbers',¹⁰⁵ was perhaps the most important and influential of these, along with the Royal Forest and Bird Protection Society and the Royal Society. The federation took an active lead in seeking to influence Parliament and Government agencies responsible for administering parks and reserves. They argued for the 'national' importance of many areas. As L O Hooker of the federation put it: 'I have now realised that the work we are doing . . . is one of Dominion-wide importance, not only for the present generation but for posterity.'¹⁰⁶ The federation wanted many areas of Crown land currently being informally used for recreational activities to be more effectively protected with some kind of reserve or park status, but on condition of guaranteeing public access and continuing recreational activities. They also sought reforms of existing reserves and national parks legislation to gain what they saw as more consistent and clearly stated purposes for national parks in particular. The principles articulated and promoted by the federation included free

103. Brad Coombes, 'Making "Scenes of Nature and Sport" – Resource and Wildlife Management in Te Urewera, 1895–1954' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A121), pp 307–308, 321, 328–330; Park, 'Effective Exclusion?' (Wai 262 RO1, doc K4), pp 271, 342, 405, 516–518, 531

104. Under-Secretary for Lands and Survey to Society for the Preservation of the Fauna of the Empire, 1926 (Park, 'Effective Exclusion?' (Wai 262 RO1, doc K4), p 341)

105. Jane Thomson, *Origins of the 1952 National Parks Act*, National Parks Series 1975/1 (Wellington: Department of Lands and Survey, 1975), p 8 (Cecilia Edwards, comp, supporting papers to 'Selected Issues: Te Urewera National Park', various dates (doc L12(a)), p 1360)

106. L O Hooker, 'Federated Mountain Clubs report re reserves work', 17 May 1934 (Thomson, *Origins of the 1952 National Parks Act*, p 8 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1360))

PAKEHA perceptions of the forest environment are frequently coloured by European cultural interpretations of “romantic” forest wilderness and attitudes towards “primitive” forest peoples. The concepts of a national park and “wilderness experience” are derived from a European industrial society!

Evelyn Stokes, J Wharehuia Milroy, and Hirini Melbourne¹

1. Evelyn Stokes, J Wharehuia Milroy, and Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera* (Hamilton: University of Waikato, 1986) (doc A111), p xiv

public access to national parks, rights of camping, and hut building in the parks. The federation forged alliances with preservationists and scientists over national parks to strengthen support for their aims. To this end they accepted that ‘Native plant and animal life should as far as possible be preserved, and introduced plant and animal life should as far as possible be exterminated. Development of parks for recreation should be undertaken only in conformity with this principle.’¹⁰⁷

Preservationists accepted that their emphasis on ‘untouched wilderness’ did not mean all activities were to be excluded. Some uses and activities were considered compatible with overall preservation goals and not compromising ‘untouched’ wilderness, while others were not. A pattern had developed in the administration of Crown reserves and parks reflecting the perceived divergence between more ‘untouched’ scenic areas, public parks, and nature reserves and sanctuaries, administered by the Lands (later Lands and Survey) Department, and the more utilitarian Forest Service management of catchment forests and production forests. In practice, for some kinds of activities for recreation, sporting, and public enjoyment purposes, there was considerable overlap. The Forest Service was mainly focused on timber production and management, and the protection of catchment (climatic) forests for water and soil protection. But it was also able to set aside native forest reserves for sanctuary preservation and scientific purposes, and it encouraged recreation and sporting interests in some forests, including catchment forests, where these activities were not incompatible with its main management responsibilities. From the 1930s, especially, it promoted ‘wise use’ or ‘multiple use’ policies for indigenous forests, for what was described as careful and sustainable management for both production and protective functions.¹⁰⁸

The Lands and Survey Department was mainly responsible for scenic and nature reserves, and sanctuaries, but it was also responsible for settlement of Crown lands

107. A E Galletly to Minister of Lands, 15 June 1938 (Thomson, *Origins of the 1952 National Parks Act*, pp 9–10 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), pp 1360–1361))

108. Roche, *History of New Zealand Forestry*, pp 414–415

and for taking care that protection reserves did not unduly ‘interfere’ with settlement or other productive land uses. Where Crown lands remained unsettled, it followed a pragmatic policy of a mix of protected areas (in anticipation of formal reserves) and a range of permitted public uses alongside core departmental responsibilities, including licensed grazing, taking of firewood, hunting and fishing, and a variety of recreational activities. This pragmatic approach also extended to its early administration of national parks where, as noted, taking or disturbing native plants and birds was generally prohibited but in early years at least such ‘improvements’ as exotic game animals were accepted. Legislation such as the Public Domains Act 1881 and, later, the Public Reserves, Domains, and National Parks Act 1928, allowed for purposes such as leasing some areas (to help pay the costs of administration and to make use of the more productive areas) and for the provision of accommodation and facilities for tourism and recreation interests. The Egmont National Park Act 1900 also provided for the possibility of leasing some park land (section 12) for accommodating tourist needs, as did general provisions in the 1881 and 1928 Acts. The earlier pattern of individual constituent Acts for national parks also allowed a considerable degree of local variation in park administration and management to meet local community concerns and agreements (such as the Tongariro National Park Act 1894).

16.5.3 Early Crown consideration of official protections for the landscapes and forests of Te Urewera

A national park for Te Urewera, based round Waikaremoana, had first been suggested by Apirana Ngata in 1909. He had ‘no doubt’, he told Parliament, that if the peoples of Te Urewera were approached properly, they would agree to a reserve for a large tract of the country between Lake Waikaremoana and Ruatahuna Valley for a national park similar to the Tongariro Park, to be a ‘reserve for all time’. There must be ‘somewhere in this country . . . through which no roads can be taken.’¹⁰⁹ Nothing came of his suggestion at the time, but it recognised the appeal of the natural landscapes and scenic beauty of the area to early tourists. Early descriptions had also reflected the often ambivalent view of the place of Tuhoe settlements in ‘unspoilt’ wilderness landscapes. In 1873, for example, Colonel JHH St John had commented about Lake Waikaremoana:

The tourist . . . has before him a glassy inland sea enclosed around by high cliffs and peaks, and rendered attractive by the wilderness of the scene. For, with the exception of a few patches of Maori cultivations, the country all about is just as it was left by Dame Nature when in her last throes she dug out and filled this huge crater and piled up the mountains surrounding it.¹¹⁰

109. Ngata, 21 December 1909, NZPD, vol 148, p1388

110. JHH St John, *Pakeha Rambles through Maori Lands* (Wellington: Robert Burrett, 1873; Christchurch: Capper Press reprint, 1984), pp 192–193 (Evelyn Stokes, J Wharehuia Milroy, and Hirini Melbourne, *Te Urewera, Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera* (Hamilton: University of Waikato, 1986) (doc A111), p 211)



Unknown (Hawke's Bay Museums Trust, 19962)

Tourists outside the Lake House Hotel, Waikaremoana, circa 1910. The hotel was opened in 1903 to develop what the Crown saw as Te Urewera's excellent potential as a tourist destination. By the time the national park was created in 1954, however, the most important issues to the Government were the protection of catchment forestry and water conservation.

Elsdon Best, engaged by the Lands and Survey Department in the late 1890s to publish a travelogue describing the beauty of the region for tourists, also referred to the lake and surrounding area in poetic terms as 'the untouched wilderness as upon the morning of the first day'. He maintained that:

It would be difficult to select a more delightful place in which to spend a holiday than the bays and inlets of the 'Star Lake' as it is often termed . . . and the camper, artist or geologist who would fail to enjoy such a holiday in Tuhoe land, let him camp by city streets.¹¹¹

By the 1890s, the Crown was assuring Tuhoe and Ngati Whare in negotiations over the creation of the Reserve in 1896 that they could expect benefits for their communities from tourism in their protected mountains and forests.¹¹² In the wake of these discussions, trout and deer were introduced for further tourist enjoyment (in circumstances which we consider in a later chapter), and tourist accommodation was provided at Waikaremoana under the auspices of the new Department of Tourist and Health Resorts, the first government tourist department in the world.

111. Elsdon Best, *Waikare-moana: The Sea of the Rippling Waters*, pp 28, 39 (Walzl, 'Waikaremoana' (doc A73), p 47)

112. Coombes, 'Making "Scenes of Nature and Sport"' (doc A121), pp 48-49

The department opened the 15-room Lake House by the lake in 1903, and later had a launch built for excursions on the lake.¹¹³

The potential importance of the Waikaremoana area for tourism development, scenery preservation, and very soon also as an important catchment forest continued to be recognised through the early twentieth century. In 1913, a royal commission on forestry proposed that all the land from the water to the sky at Waikaremoana be designated a scenic reserve.¹¹⁴ Similar proposals from various Scenery Preservation boards followed. The opening of the Rotorua–Wairoa highway in the 1930s, at a time of substantial increase in car ownership, was expected to herald a new phase in tourism opportunities for Waikaremoana. Officials remained convinced through the 1930s of the crucial importance of purchasing the scenic bush to the skyline along the Te Whaiti–Waikaremoana road.¹¹⁵ At the same time, the practical value of the Waikaremoana forest catchment for soil and water conservation purposes continued to be recognised; the ‘climatic’ importance of the area was referred to in the same breath as its scenic qualities. In the early 1920s, the lake was also being considered for hydroelectricity development, another practical reason for protecting the water source.¹¹⁶

The possibility of a national park in Te Urewera was raised again in the mid-1930s, and again came to nothing. By this time, the Crown was contemplating the future of the lands it had acquired from Maori through its extensive purchasing in the Reserve blocks and the subsequent consolidation scheme. As we have noted in our earlier chapters, the Urewera A block awarded to the Crown at the end of the consolidation scheme in 1927 was 482,300 acres, while Maori were awarded approximately 106,000 acres. The Crown had already accepted by the 1930s that its plans for extensive farm settlement of its lands were no longer realistic, and had abandoned them. It then turned its attention to other options for the entire Te Urewera region ‘in the best interests of the state.’¹¹⁷

A number of Crown agencies were involved in the 1930s in investigating possible alternative uses for the lands the Crown had acquired – in particular the Forest Service and the Lands and Survey Department. Two delegations of officials were sent to Te Urewera, and two reports were written, as well as a series of recommendations made by an inter-departmental committee in Wellington. The Forest Service, with its major responsibilities for ‘climatic’ or catchment forests and for regulating and managing indigenous timber production, was very interested in the district. MacIntosh Ellis, the first director of the Forest Service, had recognised the importance of Te Urewera forests as early as 1921. He had instructed the Rotorua Conservator, H A Goudie, to provide a comparative analysis of Te

113. ‘Second Annual Report of Department of Tourist and Health Resorts’, 1 May 1903, AJHR, 1903, H-2, p xi

114. ‘Report of the Royal Commission on Forestry’, AJHR, 1913, C-12, p xix

115. Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), p105

116. SKL Campbell, ‘Urewera Overview, Project Four: Te Urewera National Park 1952–75’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 1999) (doc A60), pp16–17

117. Under-Secretary for Lands to commissioner of Crown lands, Auckland, 14 March 1934 (Campbell, ‘Te Urewera National Park’ (doc A60), p 23)

Urewera ‘functioning as a State Forest and as an area given over to settlement with the consequent denudation of forest.’¹¹⁸ Goudie had recognised the importance of the catchment forests for the productive capacity of farmlands in the eastern Bay of Plenty, claiming that the ‘denudation of the Uriwera [would be] a crime against posterity.’¹¹⁹ After an inspection of the Waimana Valley in 1922, he urged that the forests adjacent to the Waimana River must be retained or the consequences for the ‘fertile territory’ at Waimana, Taneatua, and Whakatane would be disastrous.¹²⁰ This, and the timber potential, convinced the Director of Forestry to state in May 1923: ‘The Urewera may be developed into a great National Timber Farm and Protection Forest.’¹²¹ He wanted the entire area to be proclaimed a State forest – that is, it would come under the control and management of the State Forest Service created by the Forests Act 1921–22.

By the 1930s, the Forest Service still had a strong interest in the district – particularly in the protection of catchment forestry and regulation of the indigenous timber resource. And already it was flagging the need for more Maori land for these purposes. But at a time of deepening economic recession the cost of purchasing such land (estimated at £78,479) was a deterrent.¹²²

The Department of Lands and Survey, with its responsibilities for settlement and scenic and other reserves, had a number of interests in Te Urewera, including the long-recognised tourism potential of the district, especially around Lake Waikaremoana. Officials decided it was necessary ‘to make a thorough exploration and survey of the whole of the Urewera to determine exactly what should be done with the country in the best interests of the State.’¹²³ At this time the Under-Secretary for Lands noted that no decision had yet been made as to whether the greater part of the district was to be ‘a Forest Reserve, a Scenic Reserve, or any other kind of reserve; but it is perfectly plain that the reservation of the greater part with a view to retaining the land in its natural state has always been contemplated.’¹²⁴ It had not, of course. Government plans for an extensive farming settlement scheme, as we have seen, were abandoned just a few years earlier.

In 1935, a joint team of Lands and Survey and Forest Service officials (Field Inspector MJ Galvin and Forest Ranger DD Dun) was appointed to report on the future of Te Urewera.¹²⁵ They were to focus on the ‘question of conservation

118. L MacIntosh Ellis to HA Goudie, 21 July 1921 (Neumann, “‘. . . That No Timber Whatsoever Be Removed’” (doc A10), p 55)

119. HA Goudie, ‘Report upon the Uriwera Country’, 1921 (Neumann, “‘. . . That No Timber Whatsoever Be Removed’” (doc A10), p 55)

120. HA Goudie to Director of Forestry, 23 February 1922 (Neumann, “‘. . . That No Timber Whatsoever Be Removed’” (doc A10), p 56)

121. Director of Forestry to Minister of Forestry, 3 May 1923 (Campbell, ‘Te Urewera National Park’ (doc A60), p 19)

122. Director of Forestry to Conservator of Forests, 4 October 1933 (Campbell, ‘Te Urewera National Park’ (doc A60), p 20)

123. Under-Secretary for Lands to commissioner of Crown lands, Auckland, 14 March 1934 (Campbell, ‘Te Urewera National Park’ (doc A60), p 23)

124. *Ibid*

125. Campbell, ‘Te Urewera National Park’ (doc A60), p 23

of the forests for the regulation of stream flow and the protection of the plains in the lower country', on timber supplies, and on what areas 'should be dedicated as national reserves for the preservation of the natural features of the country and for river conservation.'¹²⁶ Their report found that the entire area lying north of the Waikaremoana road (a mix of Maori and Crown land) was of no value as a commercial timber proposition. The valuable pockets of commercial timber in this area were small and isolated, and inaccessible or too difficult to mill. The only area considered suitable for production forestry was in the Whirinaki Valley.¹²⁷ The real value of the rest of the Urewera forests was for water and soil conservation purposes. The Urewera district (both Crown and Maori land) comprised the catchment area of three large rivers – the Rangitaiki, Whakatane, and Waimana. Together they served 200,000 acres of farming land in Whakatane county, including the Rangitaiki drainage area, reclaimed and protected by public works at great cost. It was believed that all this land, as well as the Galatea Settlement and (to a lesser degree) the Opotiki flats, served by the Waioweka River, would sustain serious damage if the Urewera were divested of bush: 'the plains would be parched in the summer and subjected to devastating floods in the winter.'¹²⁸

The report reflected the developing focus of Crown policy for Te Urewera, which increasingly centred on preserving the forests for national timber regulation purposes, primarily in the name of soil and water conservation.¹²⁹ From this point onwards, as the Tuawhenua research team put it, 'the policy of preservation of the Urewera underpinned all other relevant policies and the Crown's general approach.'¹³⁰ Officials considered how this protection would be best achieved, whether as 'Provisional State Forest, Conservation, Scenic region or Crown Land'. Two proposed alternatives for overall management were:

- ▶ supervision by the State Forest service, both of Crown milling areas and forests reserved for climatic purposes (with full cooperation from Lands and Survey in the protection of scenery and native birds); or

126. A D McGavock to Conservator of Forests, Rotorua, 15 March 1934, and W Robertson to commissioner of Crown lands, Auckland, 7 March 1935 (Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p 72)

127. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp 72–75, 78–80

128. Galvin and Dun to Conservator of Forests, Rotorua, 29 April 1935 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp 39–40)

129. Under-Secretary for Lands and Director of Forestry to Minister of Lands and Commissioner of State Forests, 23 December 1948 (SKL Campbell, comp, supporting papers to 'Urewera Overview, Project Four: Te Urewera National Park, 1952–75', 2 vols, various dates (doc A60(a)), vol 1, pp 71–73); Heather Bassett and Richard Kay, 'Ruatahuna: Land Ownership and Administration, c 1896–1990' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A20), pp 175, 177–180; Brian Murton 'The Crown and the Peoples of Te Urewera, 1860–2000: The Economic and Social Experience of Te Urewera Maori' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc H12), pp 749–750; Richard Boast, 'The Crown and Te Urewera in the 20th Century: A Study of Government Policy' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A109), p 258

130. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two: A History of the Mana of Ruatahuna from the Urewera District Native Reserve Act 1896 to the 1980s' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc D2), p 311

- ▶ special legislation for control of ‘the Urewera’, including the appointment of an honorary committee of control representing the Lands and Native Departments and the State Forest Service, to advise the Government on all matters pertaining to the region.¹³¹

Thus, Crown officials were ready to try an experimental regime, largely under Crown control, to take account of what they saw as the complexities of the district. These included Maori ownership rights and some means of recognising the needs of existing Maori communities (through the Native Department). Not surprisingly, the Forest Service was strongly in favour of the first option; the Rotorua Conservator of Forests claimed that ‘[t]his Service should be the forest authority with full control in the management of all Crown forest whether it be protection forest or capable of commercial exploitation.’¹³²

So, although the forest would be ‘a great national playing area for at least the North Island’, and a sanctuary for birds and native flora, he explicitly rejected the option of a form of national park with its own board of management. He argued that the central (Tongariro) national park covered very different terrain, with snowy mountains, volcanoes, and wide bare spaces. By contrast, he wrote, Te Urewera forest required careful and proper management; evidently he did not see current national park management as adequate. He accepted that there might be public objections to this option (presumably due to suspicions about the adequacy of Forest Service protection) and argued these might be overcome if the Forest Service offered a different form of protection. Here, he foreshadowed the later solution for Waipoua forest (which we discuss below). This was also similar to what in later years would be developed into ‘forest park’ proposals:

There will no doubt be opposition from certain sections of the public towards any attempt to proclaim it State Forest but this could be overcome by creating it a ‘Forest Sanctuary’ which would efficiently secure it for all time as a national reserve and also assure its proper control and policing etc.¹³³

An inter-departmental committee made up of senior officials from the Lands and Native Departments, as well as the Director of Forestry and the commissioner of Crown lands, then made recommendations to the Government in 1936. Their key recommendation was a compromise. They proposed that the whole ‘Crown award’ from the Urewera Consolidation Scheme (for which they gave a figure of some 370,000 acres) – with the exception of some 40,000 acres in the Whirinaki Valley to be proclaimed a State forest, and milled – should be made a reserve for ‘scenic and historic purposes’, administered by the State Forest Service under

131. Galvin and Dun to Conservator of Forests, Rotorua, 29 April 1935 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 41–42)

132. Conservator of Forests to Director of Forestry, 8 May 1935 (Neumann, “‘. . . That No Timber Whatsoever Be Removed’” (doc A10), p 75)

133. *Ibid*

special legislation.¹³⁴ So the committee also rejected the possibility of a national park, opting instead for overall Forest Service control. But most of the area (apart from one area to be set aside for commercial timber production) should be managed for a range of ‘multiple use’ activities, including catchment control, possible forest sanctuaries, and public recreation and enjoyment; presumably also (given their other comments on local Maori communities) they envisaged some opportunities for those communities to sustain themselves. The committee stressed the importance of active management of the crucial catchment forests. It noted the ‘enormous value’ of Te Urewera for water-conservation purposes, and the disastrous results for the river valleys that would result from destruction of the forest.¹³⁵

The committee also accepted the importance of scenery preservation for tourism purposes and to this end recommended that negotiations be conducted with Maori in the hope of preserving the bush on Maori land along the Te Whaiti–Waikaremoana road, which it felt was ‘destined to be one of the most important scenic highways in the Dominion’. While the recommendations assumed yet more land would be acquired from Maori, the committee nevertheless seemed to accept the continuing presence of Maori communities in the area. The committee believed that such overtures would be well-received by Maori and also suggested the acquisition of a block of some 6,000 acres of Maori land on the western side of the Whirinaki River, at a probable cost of £7,500 to £10,000, which it suggested should be held in trust, and spent ‘meeting the needs of the Urewera Natives.’¹³⁶ This land included the bulk of the remaining Maori-owned land in the Whirinaki Valley, although Galvin and Dun had suggested that just 1,100 acres be purchased for its soil and water conservation value.¹³⁷

The committee’s rejection of the option of a national park in Te Urewera was based on what it called ‘administrative difficulties’, without elaborating what it meant by these.¹³⁸ Two major considerations may have influenced this decision. The committee may have accepted the Forest Service argument that national park administration at this time (with machinery provided by the Public Reserves, Domains, and National Parks Act 1928) would not be up to providing the level of control and expertise required for protecting the important catchment forests. The local representation on many national park boards was often subject to criticism at this time for being ineffective and over-concerned with local jealousies.¹³⁹ The committee may also have been concerned with the ‘difficulties’ raised by the con-

134. In addition, it proposed that 2,800 acres in the valley be retained as Crown land, to be used for supply of fencing posts and other Government requirements for land development schemes.

135. Under-Secretary for Lands to Minister of Lands, 24 February 1936 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 44–46)

136. *Ibid.*, pp 45–46

137. Neumann, “... That No Timber Whatsoever Be Removed” (doc A10), pp 77–78

138. Under-Secretary for Lands to Minister of Lands, 24 February 1936 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), p 45)

139. Meredith Stokdijk, ‘Between Two Acts: An Investigation into Attitudes and Lobbying in New Zealand’s National Parks Movement 1928–1952’, MA thesis, University of Canterbury, 1988, pp 47–49

tinuing presence of Maori land in the midst of Crown land in the area now proposed for protection. The committee's proposed solution followed the well-trodden path of recommending that even more land be purchased from Maori, thus further reducing their property rights in the area. This idea would be resurrected in the early 1950s when a national park option was again being proposed for Te Urewera. We return to this point below.

In the mid-1930s, when these recommendations were being made, officials and the Government at least recognised the need to engage with Te Urewera communities over their proposals, and the need to take account of continuing community needs. A second official deputation, comprising Chief Clerk George P Shepherd of the Native Department and Galvin, was sent to Te Urewera in May 1936. They were charged with negotiating with Maori to preserve the bush along the Te Whaiti–Waikaremoana road, as recommended by the committee and with reporting on the future of the district. They were also to investigate 'the circumstances and living conditions of the Maori people residing in the area and the matter of road access to and from the principal Maori settlements'.¹⁴⁰ The inter-departmental committee's comment that it was 'essential that the goodwill of the Natives should be secured' in order to gain support for forest protection measures evidently carried weight.¹⁴¹ Galvin and Dun, similarly, had maintained that helping the people of Maungapohatu would 'ensure their co-operation in Forest preservation measures'.¹⁴²

Shepherd and Galvin arrived at Matahi bearing a message of goodwill from the Native Minister. They were welcomed by Rua Kenana and his people. They proceeded via Tawhana (where they also stopped) to Maungapohatu, carrying their message from the Government of the importance of preserving the forest, which they considered was warmly received at the various communities. A key, and very long, meeting was held at Ruatahuna, in the whareniui Mataatua, where many owners of the lands abutting the scenic road at Waikaremoana were present. They already had offers for the timber on the land, and they evidently wanted to know what the Crown would counter-offer. But at this stage, the officials were not able to give them the answers they sought as they did not know how much land the Crown wanted to acquire, or what value to put on it. Nor did they know whether the Crown would offer cash, or land in exchange, another matter raised by owners.¹⁴³

140. G P Shepherd and MJ Galvin, 'Urewera District Lands (Interim Report)', memorandum to Under-Secretary for Lands, no date, p 1 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 47)

141. Under-Secretary for Lands to Minister of Lands, 24 February 1936 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 46)

142. Galvin and Dun to Conservator of Forests, 29 April 1935 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 33)

143. Shepherd and Galvin, 'Urewera District Lands (Interim Report)', pp 1–4 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp 47–50)

It is an undoubted fact that the preservation of this timber is of more direct value to the European Community than to the Natives themselves, and if the preservation of the forest as we recommend is to be pursued as a definite Government policy, it becomes increasingly clear that the Government will require to give earnest consideration to the needs of the aboriginal inhabitants of this area.'

G P Shepherd and MJ Galvin¹

1. G P Shepherd and MJ Galvin, 'Urewera District Lands (Interim Report)', memorandum to Under-Secretary for Lands, no date, p 11 (SKL Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p57)

A number of themes emerged from the deputation's report. It was felt that a good start had been made in discussions about preserving the bush along the Te Whaiti–Waikaremoana road (and a return visit was required to complete them). Shepherd and Galvin also believed that Maori were already under considerable pressure from unscrupulous millers, who they believed were encouraging owners to think the timber on this land was much more valuable than it really was. They wanted more certainty about the estimated value of the timber before entering into discussions with the owners aimed at acquiring the land along the road. Shepherd and Galvin also recommended that only if the owners proved 'intractable' should the Government consider taking the land under the Public Works Act for scenery preservation purposes. They emphasised the need to recognise the value of forest land the Crown hoped to acquire from Maori for scenic and water conservation purposes. They acknowledged that Maori were living in difficult economic conditions, and their needs had to be properly considered. It was important that they received a 'quid pro quo' in return for the lands acquired, whether this was a cash payment or an exchange with Crown land suitable for farming (see the sidebar above).¹⁴⁴

The Shepherd and Galvin report acknowledged (as had Galvin and Dun's) the now fragile economic position of Maori communities in Te Urewera. In many cases they were now dependent on casual road work, seasonal shearing, and the sale of timber posts to Europeans 'who very often fail to pay them'. The officials discussed the potential for farming on the river flats between Waimana and Tawhana, noting the need for financial assistance and better road access (pointing to the fact that the road had fallen into disrepair, and work to fix it would provide considerable employment), and recommended a native land development scheme. They

144. Ibid, pp 8–10 (pp 54–56)

considered that the Government ought to seriously consider supporting farming at Maungapohatu; though they doubted that loans could be repaid with interest. However, they considered that otherwise ‘the undertaking would prove self-supporting . . . and might even make a profit’. It would also be a ‘social success’ and, given the vast crop of ragwort they had seen there, it would be in the public interest that the land be farmed or the people moved out, and the land re-afforested. ‘The latter’, they added, ‘can hardly be contemplated as the Maoris have their roots very deeply embedded in the soil and their removal would be very difficult indeed.’ They recommended construction of a track from Maungapohatu to Papatotara, and reconditioning of the six-foot track from Tawhana to Maungapohatu, as well as immediate installation of a telephone line from Ruatahuna so that the people would no longer be so isolated.¹⁴⁵ Galvin and Dun had previously argued that revitalising farming at Maungapohatu, where 1,000 acres had been felled and grassed (though farming was suffering because of lack of fencing and stock), would greatly improve life for the 200 to 300 ‘impoverished Natives’ who lived there. And they added that at Ruatahuna the people had been saved from destitution or starvation by the land development scheme.¹⁴⁶

While the Crown was now clearly committed to forest and scenic protections for much of Te Urewera, this series of reports revealed that, in the 1930s, the Crown was also mindful of its responsibilities to Maori communities of the area and the need to practically accommodate their needs and concerns. This was evident in the willingness to send deputations to engage with local communities, and the inclusion of Native Department officials. The interaction between officials and Maori provided important information to the Crown about these communities and reminded the Government of their continuing presence, their tenuous economic position, and their determination to remain on their ancestral lands. The various recommendations still advantaged the powers and interests of Crown agencies, and the preferred fall-back solution was still to seek to extinguish Maori property rights to ‘simplify’ administrative difficulties. But the reports and the proposals that followed indicated that taking account of Maori rights and interests and devising innovations to meet local circumstances was possible at the time. At this time, these proposals went nowhere – perhaps because the Government became preoccupied with the Te Whaiti timber, as a private company was anxious to secure rights to it. In response, the Government considered acquiring Te Whaiti Residue B block and four adjacent smaller blocks to proclaim them a Scenic Reserve so that they would not be logged, offering Maori owners farm land in exchange. But the exchange did not eventuate, for reasons that are not clear.¹⁴⁷ Meanwhile, the Government embarked on milling its own timber in the Whirinaki Valley from 1938. The rest of the Crown land, in accordance with

145. Shepherd and Galvin, ‘Urewera District Lands (Interim Report)’, pp 5–7, 10–12 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 51–53, 56–58)

146. Galvin and Dun to Conservator of Forests, 29 April 1935 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 32–33)

147. Neumann, “‘. . . That No Timber Whatsoever Be Removed’” (doc A10), pp 81–83

the recommendation of the officials, was to 'be held strictly for water conservation and scenic purposes'.¹⁴⁸ Over the next decade, the Forest Service continued to regulate the timber resource and manage the catchment forests, including the regulation of Maori timber-cutting rights (which we discuss further below). It would be the early 1950s before proposals were again put forward for a national park in Te Urewera.

16.5.4 The origins of the National Parks Act 1952

Following the Second World War, recreation and preservationist interest groups began intensifying pressure for greater protections for landscapes and natural areas that were now under greater threat due to post-war demand for timber and for greater use of natural resources. In response to imminent threats to native forests and bird life especially, these groups intensified their efforts to extend national parks and reform their administration. If supply of timber and access to resources were in the national interest, they argued, reformed national parks were required to protect areas of 'national' interest and importance.¹⁴⁹ They found support for this position among Lands and Survey officials, many of whom shared similar interests and aims. A key official was Ron Cooper, chief clerk of the Lands and Survey Department and, from 1946, chief land administration officer, who was a parks enthusiast himself. In a 1944 talk to the Tararua Tramping Club, he noted that national parks might be scientific reserves (as, we might note, in Europe and Japan) or wilderness areas to which the public had access (as in North America). He saw New Zealand parks as belonging to the latter category with clear limits on the kinds of human activity allowed. Such a park would essentially be 'a wilderness area set apart for preservation in as near as possible its natural state, but made available for and accessible to the general public, who are allowed and encouraged to visit the reserve'.¹⁵⁰

In this view, recreation and enjoyment were to be the main public activities. However, advocates such as Cooper continued to be willing to accommodate the views of scientists and others interested in preserving natural scenery and indigenous species, as long as these principles of public access were met. Cooper agreed such recreational uses would also mean that natural scenery, flora, and fauna would be 'interfered with as little as possible'. He supported the idea of a better articulated national policy for protection of nationally significant areas and agreed that national parks should contain scenery of 'distinctive quality, or some natural features so extraordinary or unique as to be of national interest

148. Under-Secretary for Lands and Director of Forestry to Minister of Lands and Commissioner of State Forests, 23 December 1948 (Heather Bassett and Richard Kay, comps, supporting papers to 'Ruatahuna: Land Ownership and Administration, c. 1896–1990', 3 vols, various dates (doc A20(b)), vol 2, p 82)

149. Thomson, *Origins of the 1952 National Parks Act*, pp 8, 13 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 1360, 1362)

150. Cooper, 'Address Delivered to Members of the Tararua Tramping Club, Wellington', 21 January 1944, L&S 4/426/2 (Thomson, *Origins of the 1952 National Parks Act*, p 11 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1361))

and importance, and as a rule . . . extensive in area.¹⁵¹ When the National Parks Authority was finally established under new legislation in the early 1950s, the Federated Mountain Clubs representative on it claimed the new policies reflected, in large measure, the advocacy of the Mountain Clubs executive, adding ‘we see what we almost are inclined to call “our Act” on the Statute book.’¹⁵²

This movement for park reform took place alongside the first large public campaigns in New Zealand to save areas of important indigenous forests now threatened by milling. The Forest Service administered a number of these forests on Crown land and argued that their ‘multiple use’ management was best suited for the forests to meet a range of objectives including protection of forest catchments, public recreation and hunting, provision for forest reserves and sanctuaries where necessary, as well as responsibly regulating indigenous timber management and production in the post-war boom, before exotic forests came on stream. Preservationists, however, rejected Forest Service management, claiming the Service was too vulnerable to milling pressure and not sufficiently committed to preserving some forests forever. They began campaigns for some forests to be ‘permanently’ and ‘absolutely’ protected and, for this, national park status appeared the best option, especially if it could be argued the forests were significant for the whole country. Preservationists joined forces with recreational interests, scientists, and water and soil conservation authorities to press for permanent protection of indigenous forests in the ‘national interest’ as national parks.

The best known and first major campaign to save an important indigenous forest was that to save the remnant Waipoua kauri forest in Northland in the late 1940s. The Crown purchased this forest from Maori in the nineteenth century, and had designated it a State forest from 1906. From almost the same time, preservationists had attempted to have it permanently saved. Efforts were put on hold during the depression and the Second World War, but after the war and with more immediate milling threats, a campaign began again for the ‘absolute and permanent’ protection of Waipoua forest, as either a protected reserve or even a national park.¹⁵³ Forest and Bird Protection Society members, along with scientists, interested members of the public, recreational groups, the Royal Society, and local authorities, worked towards the common aim of permanent protection for the forest. Support also came from L W Parore, a descendant of one of the original owners, who claimed the original purchase was based on an understanding that the forest would be placed under a permanent protective rahui. He also supported the forest being designated a national park, under a joint Maori–Pakeha board of trustees.¹⁵⁴ Even amendments to the Forests Act in 1948 and 1949 to make it legislatively clear that some forest areas could be established as ‘forest sanctuaries’

151. Cooper, ‘Address Delivered to Members of the Taranui Tramping Club, Wellington’, 21 January 1944, L&S 4/426/2 (Thomson, *Origins of the 1952 National Parks Act*, p 11 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1361))

152. National Parks Authority, minutes, 15 April 1953 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 65)

153. Roche, *History of New Zealand Forestry*, pp 405–412

154. *Ibid.* The Parore petition was submitted to Parliament in 1947.

under Forest Service control failed to allay concerns. A compromise protection was eventually reached in 1952, and Waipoua forest was gazetted a 'forest sanctuary' (under the Forests Act 1949).¹⁵⁵

This campaign strengthened resolve to secure reform of the national parks legislation. Interest groups again used strategic alliances successfully to achieve a wide range of support, against a background of heightened environmental awareness. In the 1940s, Forest and Bird Society members, for example, supported and helped publicise the work of the recently established Soil Conservation and Rivers Control Council, pointing to the importance of protecting catchment forests to prevent destructive floods, erosion, and the loss of prime farmland in the national interest. This was especially persuasive in the 1940s as memories were still fresh of recent damaging floods that had led to the creation of these agencies. This included the dramatic floods of April 1938 in Gisborne and Hawke's Bay. In the course of two major storms, enormous quantities of silt had been carried down rivers, and flooding, slips, and landslides caused extensive damage to roads and bridges throughout the district. A public works camp by the Kopuawhara River was overwhelmed, and 21 lives lost.¹⁵⁶

The Minister of Public Works, who visited the Esk Valley, scene of the worst devastation in Hawke's Bay, spoke of his horror in powerful terms when he introduced the second reading of the Soil Conservation and Rivers Control Bill three years later: 'the washing of millions of tons of spoil and rubbish into the river . . . [f]ences and hedges were not to be seen, and houses were standing half-buried.' This was the product of 'erosion in the higher country'.¹⁵⁷ The floods had major political impacts, enabling scientists (well aware of pioneering American work on soil conservation) to gain significant influence with Government policies. Norman Taylor and Vladimir Zotov, working under the auspices of the Department of Scientific and Industrial Research (DSIR), published articles which provided evidence for the argument that 'the country was in desperate need of a coherent policy of soil and water conservation'.¹⁵⁸ The Government set up a Land Deterioration and Soil Erosion Committee, chaired by Taylor. The findings of the committee led to the Soil Conservation and Rivers Control Act 1941, and the work of catchment boards.¹⁵⁹ The work of geographer Kenneth Cumberland, aimed at a wider audience, was an enormous wake-up call about the impact of 'pioneer destruction of the resources of a little known environment', which had led to the 'disastrous' outcome of soil erosion.¹⁶⁰ Preservationists were able to use this

155. Roche, *History of New Zealand Forestry*, p 414

156. L W McCaskill, *Hold this Land: A History of Soil Conservation in New Zealand* (Wellington: AH & AW Reed, 1973), p 15

157. HT Armstrong, 3 September 1941, NZPD, vol 260, p 453

158. Neumann, " . . . That No Timber Whatsoever Be Removed" (doc 110), p 84

159. *Ibid*, p 85

160. Kenneth B Cumberland, *Soil Erosion in New Zealand: A Geographic Reconnaissance* (Wellington: Soil Conservation & Rivers Control Council, 1944), p 3. Cumberland, appointed to the Department of Geography at the University of Canterbury in 1938, spent six years studying soil erosion all over New Zealand; he was later appointed professor at the University of Auckland.

growing understanding and acceptance of these links between native forest protection and the public interest to call for the permanent protection of important remaining catchment forests, including those in Te Urewera.

Work on a new National Parks Bill (drafted by Ron Cooper) survived the change of Government in late 1949, and with the support of the new National Government emerged as the National Parks Bill 1951. This Bill both reflected the national interest (that is, the need to protect important catchment forests and water supplies), and recognised the concerns of the special interest groups who had worked so hard for reform (trampers, skiers, the Federated Mountain Clubs, Forest and Bird, and Royal Society members). The Bill was delayed partly by the snap election of 1951, following the major waterfront dispute of that year, and partly to allow time for further consultation with a variety of Government departments, commissioners of Crown Lands, interest groups, and individuals. It was then introduced in 1952.¹⁶¹

Ernest Corbett – the Minister of Lands, Forests, and Maori Affairs in the first National Government – explained the Bill in terms of both the national interest and the interests of recreational groups. He stated it was, in part, a consolidating measure of earlier provisions concerned with national parks – the ‘principal playing-areas of New Zealand’.¹⁶² It replaced the former Public Reserves, Domains, and National Parks Act 1928. It was the first Act to deal solely with national parks, as opposed to other kinds of reserves and domains. Its main purpose was to preserve nationally important areas of distinctive scenery or beautiful or unique natural features. Other important objectives were the maintenance of soil and water quality, conservation, and provision of improved public access, although the public would be required to accept ‘a marked degree of responsibility’ in return for that privilege.¹⁶³ Corbett emphasised the national importance of protecting and holding ‘in trust for the people’ important New Zealand watersheds, the ‘sources of most of our rivers which, in turn, supply the power for hydro-electricity as well as the essential supplies of water for the cities’ alongside areas of significant importance for ‘vigorous sports’, the ‘great panoramas that Nature has provided’, and reserves for native bird life that would feel ‘perfectly safe’ in national parks that were to be made free of introduced pests.¹⁶⁴

The response of the House was generally enthusiastic, with considerable cross-party support for the principles set out in the Bill. Robert Semple, for example, described the remaining forests as ‘the lungs of New Zealand’.¹⁶⁵ Corbett heartily agreed with this, while other members spoke of tourism, trout fishing, and the need to preserve forests from the axe.¹⁶⁶

161. Cecilia Edwards, ‘Selected Issues: Te Urewera National Park; Thematic Issue 33’ (commissioned research report, Wellington: Crown Law Office, 2005) (doc L12), p 6

162. Corbett, 5 August 1952, NZPD, vol 297, p 712

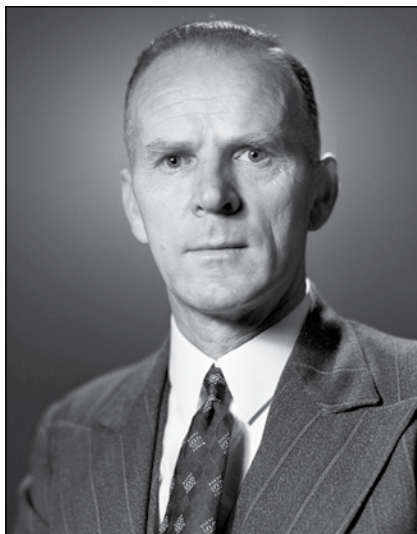
163. *Ibid*, p 713

164. *Ibid*, p 714

165. Robert Semple, 6 August 1952, NZPD, vol 297, p 714

166. William Bodkin, 5 August 1952, NZPD, vol 297, pp 720–721

Stanley P. Andrew (ATL, 1/020191F)



Ernest Corbett. At the time of the introduction of the National Parks Bill in 1952, Corbett was the Minister of Lands, Forests, and Maori Affairs in the National Government. Te Urewera National Park was created under that legislation in 1954. Te Urewera was Corbett's priority; he wanted a large national park there. But the new National Parks Authority, aware that there were Maori settlements and some Maori ownership of nationally important forest areas in the heart of Te Urewera, decided to avoid controversy and start with a small park centred on Waikaremoana and Waikareiti that comprised only about a quarter of the Crown's land.

The National Parks Act 1952 included for the first time a statement of clear overall purpose for national parks (section 3(1)). This was 'preserving in perpetuity as National Parks, for the benefit and enjoyment of the public, areas of New Zealand that contain scenery of such distinctive quality or natural features so beautiful or unique that their preservation is in the national interest'.

Section 3(2) of the Act provided that national parks were to be administered and maintained having regard to these general purposes, so that:

- (a) They shall be preserved as far as possible in their natural state:
- (b) Except where the Authority otherwise determines, the native flora and fauna of the Parks shall as far as possible be preserved and the introduced flora and fauna shall as far as possible be exterminated:
- (c) Their value as soil, water, and forest conservation areas shall be maintained:
- (d) Subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the native flora and fauna or for the welfare in general of the Parks, the public shall have freedom of entry and access to the Parks, so that they may receive in full measure the inspiration, enjoyment, recreation, and other benefits that may be derived from mountains, forests, sounds, lakes, and rivers.

The 1952 Act created a new National Parks Authority (section 4). Its membership comprised senior Government officials (including the Director-General of Lands, the Director of Forestry, and the general manager of the department of Tourist and Health Resorts), and one appointment each on the recommendation of the Royal Society, the Forest and Bird Protection Society, and the Federated



Members of the National Parks Authority confer during the 1950s. While the Authority comprised Government officials and representatives of the Royal Society, the Forest and Bird Protection Society, and the Federated Mountain Clubs, Maori members were distinctly absent from the national policy-focused body. Nor did they have statutory membership of the Te Urewera park board.

Mountain Clubs. The final appointee was to represent the national park boards which were constituted under the Act. Subject to the overall provisions of the Act, under section 6 the duty of the new National Parks Authority included:

- (a) To advocate and adopt schemes for the protection of National Parks and for their development on a national basis:
- (b) To recommend the enlargement of existing Parks and the setting apart of new ones:
- (e) Generally to control in the national interest the administration of all National Parks in New Zealand.

In undertaking these duties, the authority was also to 'have regard to any representations . . . made by the Minister to give effect to any decision of the Government in relation thereto, conveyed to the Authority in writing' (section 7).

Previous national parks (Tongariro, Egmont, Abel Tasman, Arthur's Pass) and the Sounds (Fiordland) reserve were now declared national parks under the 1952 Act and became subject to it (section 9). The Act also provided (section 10(1)–(2)) for Crown land to be added to national parks on the recommendation of the authority to the Minister. And for the purpose of providing 'more suitable boundaries', or for exchanging land within the park for other more suitable land, land

might be excluded from the park by Order in Council. As with earlier legislation, it was assumed that private ownership and settlement was not appropriate within national parks and the Crown was empowered to negotiate to purchase private land or any right of way over private land for a park, or to accept it as a gift, to extend an existing park. Land or a right of way over it might otherwise be taken as a public work under the Public Works Act 1928 (section 13(1)). We will discuss the individual national park boards created under the Act later in this chapter.

What the Act did not do was make specific provision for Maori interests either on the ground or (with the historic exception of the Tongariro board) in the new parks' governance and administration structures. Perhaps this was not surprising since, as Crown witness Cecilia Edwards has commented, during the period of consultation on the Bill: 'It seems reasonable to conclude that no special account was taken of Maori interests.'¹⁶⁷ Their omission from the authority and park boards was despite specific provisions in the Act for representation on those bodies of trampers, Forest and Bird supporters, and skiers, as well as for taking account of their interests in parks. There was no provision even for official representation of Maori interests: although Lands, Forestry, and Tourism officials were represented on the authority, Maori Affairs Department officials were not. This was also the case for park boards constituted under the new Act, even for those in areas where Maori land ownership would be affected. The focus of the new Act on areas of national significance under a new national authority left no room to accommodate local Maori concerns in new parks that would be set up under the Act.

The member for Southern Maori, Eruera Tirikatene, appeared to accept during the debates that he could do little in the face of overwhelming support for the principles now clearly articulated in the Bill. He assured the House that he supported the Bill in principle, and paid tribute to the role of Te Heuheu in establishing New Zealand's first national park. As a representative of the Maori people, he felt the need to assure the House he was not 'endeavouring to throw a spanner into the works.'¹⁶⁸ But he made a plea for recognition of Maori rights, for consultation with Maori when new national parks were created, and for the payment of adequate compensation should more of their land be acquired for national park purposes:

After all, these areas are their sole heritage. . . . Maori owners would concur in what it was proposed to do, but there should be discussion with them so that they would be fully aware that the areas involved were going to be taken over for national parks, and if they were holding the property for the future benefit of themselves or of their families then that should be taken into consideration when compensation was being computed.¹⁶⁹

As its supporters hoped, the new National Parks Act, with its more clearly articulated objectives for parks, and the overarching National Parks Authority it

167. Edwards, 'Te Urewera National Park' (doc L12), p 7

168. Eruera Tirikatene, 5 August 1952, NZPD, vol 297, p 724

169. *Ibid*

created, helped spur the establishment of a new cluster of six national parks in 1952 and succeeding years. Among these was Te Urewera (1954), where the Government flagged its intention to create a national park at the time of the debates on the Bill. We turn now to consider whether, by this time, a park like this was the only practical option for Te Urewera, in light of the Crown's objectives.

16.5.5 Why did the Government want a national park in Te Urewera by 1952?

The proposal for a national park in Te Urewera had been rejected in the 1930s, but the new enthusiasm for national parks in the 1950s meant that the idea was once again revisited. While many of the issues relating to management of Crown lands in Te Urewera remained the same by this time – including protections for catchment forests, scenic landscapes, and regulating milling – other factors had changed. The new Minister, Ernest Corbett, had assumed the key portfolios of Lands, Forests, and Maori Affairs in December 1949. Corbett, as we have seen, actively promoted the accommodation of recreation, preservation, and 'national interest' measures in the new National Parks Act. He had a good relationship with many of the relevant interest groups, and firmly supported the permanent protection of crucial catchment forests as a matter of urgency, in the national interest. He was particularly concerned about the threat posed by sawmillers, and the adequacy of existing regulation of timber milling (some of which was still based on wartime measures). Early in his term in office, Corbett had been made aware of this 'threat', as it was seen to exist, in Te Urewera. At this time, ongoing negotiations over timber milling in Te Urewera dovetailed into broader considerations about forest protection, and the possibility of creating new national parks.

The Government's interest in regulating timber milling in Te Urewera had undergone a series of developments in the period before Corbett took office. Since the 1930s, the Forest Service had used available powers to deny sawmillers consent to mill timber on Maori land (see sidebar). Fearing that approving any one application would have a domino effect, the Forest Service adopted a strict approach 'as a matter of practice'.¹⁷⁰ This policy was implemented with the related intention that Maori owners would feel pressured to sell their other remaining asset – their land. They resisted, but only with difficulty. Ministers and officials consistently acknowledged that the Crown was morally obliged to compensate Maori for effectively

170. Director-general of forestry to commissioner of Crown lands, Gisborne, 22 July 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp102–103); AL Poole, 'Urewera Maori Lands: Summary of Forest Service Activities 1953–1957 when Hon EB Corbett was Minister of Lands and Forests', 6 October 1960 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p111); Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp63–70, 92, 121; Campbell, 'Te Urewera National Park' (doc A60), pp51, 60; 'Facts and Figures of the Urewera Maori Lands in Relation to the Four Catchment Areas, National Parks and State Forests, Delivered by Honourable ET Tirikatene, Minister of Forests, at Ruatoki, 22.11.59' (Tama Nikora, 'Te Urewera Lands and Title Improvement Schemes' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc G19), app C, p6)

The Consent Process for Milling on Maori Land

In the late nineteenth century and through much of the twentieth century, Maori could mill timber on their own land but other parties could not do so without Crown consent. Before 1949, the Commissioner of State Forests (latterly the Minister of Forests) approved applications on a simple ye or nay basis under section 35(2) of the Forests Act 1921–22.

The Forests Act 1949 (section 65(1)) and the Maori Affairs Act 1953 (section 218, which superseded existing controls over logging on Maori land), both provided more flexibility: consent could be given in whole or part, and with or without conditions. The owners' economic interests were also now considered, by the Maori Land Court or (until 1952) a Maori Land Board.

The legal process was meant to work like this: sawmillers wanting to mill a Maori land block would ask the Maori Land Court to summon a meeting of owners. If the court agreed to do so, then the owners would vote on a resolution put to them by the millers quoting a price for selling cutting rights. Votes were proportional to share holding. If the vote favoured selling, the land was inspected by Crown forestry officials, who recommended whether or not the Minister of Forests should give consent. Finally, the Maori Land Court would confirm or reject the proposal, based on its assessment of whether or not the owners were getting a fair deal.

freezing their timber assets.¹⁷¹ But agreed settlements over the value and means of compensation proved very elusive. The Crown wanted to buy land together with its timber. It was also willing, in theory, to negotiate exchanges of forest for farm land. Maori landowners would not willingly part with their land, and they accepted the need for some protection forests, but they wanted to be compensated for being forced to forgo their property rights in commercial timber, either through cash payments or land exchanges. Given these circumstances, the obvious compromise was land exchange.¹⁷² However, in a sign of things to come, even early land exchanges considered in the 1930s for Te Whaiti lands foundered, despite

171. See MJ Galvin and DD Dun, 'Report by Officers of the Lands and Survey Department and the State Forest Service on the Urewera Forest', 29 April 1935 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 36); Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), pp 80, 98, 106; Corbett, 24 April 1953, NZPD, vol 299, p 264; Bassett and Kay, 'Ruatahuna' (doc A20), pp 185–186.

172. Secretary, Maori and Island Affairs Department, to Director-General of Forests, 24 December 1971 (Brent Parker, comp, 'List of Documents – Compensation for Restrictions Placed on Milling of Native Timber in the Urewera', 2 vols, various dates (doc M27(b)), vol 2, pp 1017–1018)

seeming enthusiasm from all sides, apparently because Crown officials already considered the Crown had insufficient land suitable for exchange.¹⁷³

As demand for timber boomed following the war, Maori owners were anxious to take advantage of their now commercially valuable timber asset. Their forests around Ruatahuna, Maungapohatu, and along the Waimana and Whakatane Rivers were, according to evidence provided to us, the ‘last substantial areas of privately-owned merchantable indigenous forest in the North Island.’¹⁷⁴ This placed great strain on the Crown strategy of continuing to deny sawmillers the right to mill on Maori land. Owners of four blocks near Ruatahuna (Te Huia, Okete, Whakapau, and Kopuhaea) were especially bitter over being persistently denied the right to establish a mill of their own and the loss of development opportunities this meant.¹⁷⁵ Unsurprisingly, small-scale timber milling by Maori (in which the Crown had no capacity to interfere), and illegal logging by sawmillers on Maori land both increased, even while this tended to reduce potential prices and provided little basis for sustained economic development.¹⁷⁶ This in turn had helped fuel preservationist concerns that Forest Service control was not sufficient to save the resource.

In 1949, the Labour Government approved the purchase of 11 blocks where it had earlier denied consent to mill (five at Te Whaiti, two in the Waimana Valley, and the four Maori blocks at Te Waiiti near Ruatahuna).¹⁷⁷ Tuhoē had made clear to Crown officials that while they were most unwilling to sell their land, they would agree to refrain from milling certain areas if they were permitted to develop others.¹⁷⁸ A partial compromise had been thrashed out roughly along these lines with Prime Minister (and Minister of Maori Affairs) Peter Fraser’s special negotiator and senior Maori Affairs officials over the four Te Waiiti blocks. The proposed settlement provided for the Crown to purchase just the Te Huia block, with payment for both land and timber, reservation of tapu sites, and permission for milling on the three other blocks. The Prime Minister had approved of this settlement.¹⁷⁹

173. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 83; John Hutton and Klaus Neumann, ‘Ngati Whare and the Crown, 1880–1999’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2001) (doc A28), pp 322–324

174. Klaus Neumann, summary of evidence and response to relevant issues for “. . . That No Timber Whatsoever Be Removed” (doc A10); 2004 (doc G1), p 2

175. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 91, 99–100; Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), pp 331–335

176. A L Poole, ‘Urewera Maori Lands: Summary of Forest Service Activities 1953–1957 when Hon EB Corbett was Minister of Lands and Forests’, 6 October 1960 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), p 111); Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 107–108, 110–111

177. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 100, 107. The blocks were Kopuhaea, Te Huia, Okete, Whakapau, Matera, Tawa-i-Tionga, Ponaua, Te Whaiti Residue A, Te Whaiti Residue B, Pahekeheke, and Tarahore 2.

178. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 100

179. Ibid, pp 103–104

Corbett had, however, decided not to continue the Labour Government's attempt at compromise with the owners. The Director-General of Lands (DM Greig) and the Director-General of Forestry (A R Entrican) had been opposed to the terms of the compromise, and wanted to prevent milling in all four blocks, and to acquire them to preserve the forests.¹⁸⁰ The Under-Secretary for Maori Affairs, Tipi Ropiha, had tried to keep the interests of Maori communities of the district before the new National Government, but his advice was not heeded. Ropiha pointed out to Greig that the compromise would provide local communities with an economic future and employment in an area where they had virtually no other prospects, whereas buying the entire blocks would render their owners landless and without assets.¹⁸¹ He reminded Corbett of 'the rights of the owners to realise their assets and the longstanding policy of not permitting Maoris to divest themselves entirely of their lands.'¹⁸²

But in Corbett's view the public good was overriding: 'The public welfare in relation to erosion and scenery preservation must be paramount. The question of rights of individuals and land disposal is a secondary one.'¹⁸³ And this was what his officials had told assembled owners at Ruatahuna in May 1951 (see the sidebar over). The owners, in response, firmly stated that they were determined not to part with their remaining ancestral lands. This was a warning that the situation would not be resolved as easily as the Minister had imagined. Advice from his officials, however, would only have strengthened Corbett's existing views. In late 1951, Dun (the Conservator of Forests at Rotorua) briefed the Director of Forestry on the dangers of increased sawmilling interest in the district because of the scarcity of native timbers and the willingness of millers to pay 'excessive' royalties to owners. He noted two recent applications for milling rights on State forest land, adding that one of them was 'only a prelude to milling in Maori owned blocks lying deep in the Urewera'. Other applications had been received for the Minister's consent to the milling of Maori-owned forest. It was clear that 'the Urewera is being attacked all round the perimeter while some places like Ruatahuna, Tiri Tiri and Tawhana are deep within the Urewera Country.'¹⁸⁴

Corbett's approach to timber milling in Te Urewera, and his search for possible solutions, was reinforced by growing public support for saving forests and for reforming and extending national park areas. Following the campaign to save Waipoua forest, interest groups were continuing to seek further national park protection for other areas they argued were of national importance. This included Te Urewera, where they feared pressure from sawmillers, and doubted that continued

180. *Ibid*, p104

181. *Ibid*, p104

182. *Ibid*, pp104-105

183. Corbett to Under-Secretary for Maori Affairs, 20 April 1950, written on Ropiha to Minister of Maori Affairs, 14 April 1950 (Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p105)

184. Conservator of Forests to Director of Forestry, 4 September 1951 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(b)), p86)

**The Preservation of the Forest on the Te Waiiti Blocks:
'A Matter of National Importance'**

Crown representative Mr Wright told a meeting of assembled owners of the Te Huia, Okete, Whakapau, and Kopuhaea blocks, held at Ruatahuna in May 1951:

We are today discussing a matter of National importance which affects both the Maori and Pakeha peoples. On the advice of the State Forest Service the Government has decided that these bush areas should be preserved for all times. You Maori people know this land better than the Pakeha, and you also know that if we cut away this mountain bush, we will not get the rainfall which is required to cultivate the lower areas. Furthermore if you look around the hilltops today, you can see where the cleared land has become eroded. . . . These are some of the reasons why the Government has decided that the timber on these blocks should not be cut. The Government could also see that unless they bought the blocks and the timber it was depriving owners of revenue rightly belonging to them . . . Briefly, the Proposal is that you sell these blocks to the Crown for the Capital Value thereof plus the value of the timber which is to be appraised by the State Forest Service if you agree to the sale. The areas occupied by yourselves to be excluded from the Sale. I repeat that this is a matter of national importance. In a recent matter, much more serious, the Maoris were the first to come forward and gave us the Maori Battalion and I hope you people will realise that this while not so serious, is also a matter which affects the people of New Zealand, both Maori and Pakeha.¹

To this, Rewi Petera replied, on behalf of the Te Huia owners, that they did not wish to sell:

we attach great historical and sentimental value to these blocks. That is why we still live and work on these remote ancestral lands. Loss of these lands would sever deep-rooted connections with the past. . . . We do not wish to sell to the Crown, or to any individual or concern.²

1. Wright, minutes of meeting of assembled owners held under part 18 of the Native Land Act 1931, Te Whiti Pa, Ruatahuna, 8 May 1951, MA 1 5/10/97, vol 2, Archives New Zealand, Wellington, p1 (Klaus Neumann, "' . . . That No Timber Whatsoever Be Removed": The Crown and the Reservation of Maori-Owned Indigenous Forests in the Urewera, 1889–2000' (commissioned research report, Wellington: Waitangi Tribunal, 2001) (doc A10), p106)

2. Rewi Petera, minutes of meeting of assembled owners held under part 18 of the Native Land Act 1931, Te Whiti Pa, Ruatahuna, 8 May 1951, MA 1 5/10/97, vol 2, Archives New Zealand, Wellington, p2 (Neumann, "' . . . That No Timber Whatsoever Be Removed'" (doc A10), p107)

Forest Service management would be sufficient to protect them.¹⁸⁵ Neumann explained to us that from the early 1950s, the Forest and Bird Protection Society ‘was by far the most important non-governmental organisation lobbying for the cessation of logging in the Urewera.’¹⁸⁶ It had able local leadership, including Bernard Teague, the chairman of the Wairoa branch, who has been described as ‘the chief protagonist of the [Urewera] park.’¹⁸⁷ Teague was a Wairoa resident and nurseryman, who led summer camps to Waikaremoana at this time, arranging a programme of speakers and leading local walks. Teague led the society’s campaign to have Te Urewera declared a national park.¹⁸⁸ He would later be appointed to the Urewera National Park Board.

By 1952, when Parliament passed the new National Parks Act, Corbett had already decided that the Crown’s land in Te Urewera would be set aside as a national park. He attended the Forest and Bird Society annual general meeting in June 1952, using the occasion to make an announcement about the park. Bernard Teague gave a talk to the meeting on ‘The Forest Land of the Tuhoe Tribes’, illustrated with many lantern slides. We were not given evidence of the details of Teague’s talk, but his views at this time are evident in his articles and publications. In a later article published in *Forest and Bird*, for example, Teague ended with these words:

Here in these halls of Tane, if we can check destroying animals and prevent fire, men and women centuries hence will still hear the dawn chorus of the birds, will still see the wood pigeon swoop across the valley, will still follow trails that were pioneered in the stone age and will find pleasure, recreation and health.¹⁸⁹

Teague also made clear links between saving the forests and their importance to the national economy. He wrote:

The scenic aspect, as wonderful as it is, is not the most important. The most important reason why we should fight for these forests is the economic aspect. From the standpoint of water conservation, erosion, ruination of vallies and lower [river] silting up, the problem of resultant costly catchment boards, all these are important points.¹⁹⁰

Following Teague’s talk at the annual general meeting, Corbett announced to the meeting that the Government intended to create a national park of 490,000

185. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 85

186. *Ibid*, p 140

187. Thom, *Heritage*, p 156

188. *Ibid*, p 157

189. Teague, *Forest and Bird*, ca 1952 (Thom, *Heritage*, pp 156–157)

190. Bernard Teague to secretary, Forest and Bird Protection Society, 1 August 1955 (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 140)

acres in Te Urewera.¹⁹¹ The chairman of the new National Parks Authority would later refer to 'certain commitments' the Minister had made to the society.¹⁹²

Corbett also openly supported a park in Te Urewera in the debates on the National Parks Bill in August 1952. Both he and a number of members spoke in favour of establishing a national park there under the new Act, and with a minimum of delay. Harry Dudfield, the member for Gisborne, stated that Te Urewera was ideal for a national park because of its 'virgin bush', important both for birds and for protecting farmland in the Bay of Plenty, and because of the beauty of Lake Waikaremoana and its importance for hydroelectricity generation. All of these made the national park option the best solution as a 'national asset'.

Corbett then foreshadowed the setting aside of a park in Te Urewera. His view was that the 'national importance' of water and soil conservation protection meant that a national park was required:

A lot of that land is very broken in character. It would create a very dangerous position from the point of view of erosion if the land were denuded of those forests. Also in that area rise many of the larger rivers that flow through the Bay of Plenty District, besides those going into Lake Waikaremoana. The necessity for water conservation demands the protection of those forests as a national park. The matter has to be viewed from the national angle.¹⁹³

Corbett indicated to Parliament that the park would be created in Te Urewera out of the lands already effectively controlled by the Crown (then around some 400,000 acres). But it would be desirable, he said, to include a further 100,000 acres still owned by Maori. This was a crucially important statement: Corbett was in fact referring to all the land that Maori retained in the heart of Te Urewera. As we will see, this Crown goal would continue to shape its policy in the longer term. Corbett told Parliament that discussions about acquiring Maori land had already begun. However, the prospect of timber milling on Maori land posed an impediment to the Crown's acquisition of it. He claimed:

At one time the Maoris were willing to make them [the forests] available to the Crown to form the Tuhoe National Park. But the high value that is placed on our diminishing indigenous timbers to-day and the desire of the sawmillers to acquire these diminishing stocks have caused the Maoris to view the matter with different eyes.¹⁹⁴

Corbett seemed to be arguing that high timber prices were the only factor preventing Maori from selling to the Crown. He made no mention of the importance

191. Thom, *Heritage*, p 156

192. National Parks Authority, minutes, 19 August 1953 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 45)

193. Corbett, 6 August 1952, NZPD, vol 297, p 771

194. *Ibid*

'A Living Museum, a Heritage for Our People'

Harry Dudfield, the member for Gisborne, explained to Parliament why Te Urewera was suitable for protection as a national park:

I understand, too, that the Minister of Lands was most impressed with the possibility of the Urewera country becoming a national park. . . . it is the largest remaining block of virgin bush in the North Island. It contains over 700,000 acres – that is inclusive of Native lands. Also within its bounds is Waikaremoana, perhaps the gem of all the lakes in the North Island. The combination of Waikaremoana and the bush behind is unrivalled as a scenic asset. It is not only necessary to preserve Waikaremoana for all time as a scenic asset, but also because a considerable part of the electric power of the North Island is generated from the outfall from the lake. Unfortunately, there, as in many other forest areas, the axe and the saw are making inroads. I appeal to the Minister . . . to make sure that this beauty-spot is secured as a national asset before the damage becomes irreplaceable. We cannot afford to allow the beautiful green hills to go, bringing about erosion to complete the damage. The Urewera country teems with animal and bird life. About thirty of our indigenous birds still exist there. The Urewera country should be preserved as a living museum, a heritage for our people. I daresay that many people who advocate permission being given to the sawmillers to go into that area do not realize that the top soil in the Urewera forest is a light, pumice soil. It is only held on the hills by the bush and the undergrowth, and if the hills were stripped of the bush the fertile flats of the Bay of Plenty would be rapidly reduced to a desert. It would be a disaster to the Bay of Plenty farmers if the bush were stripped.¹

1. Harry Dudfield, 6 August 1952, NZPD, vol 297, p 768

to Tuhoe of staying on their own lands, and having some means of sustaining themselves, as had been consistently made clear to the Crown in the past. He assured Parliament that timber cutting would not be allowed where there was a danger of causing flooding (in the catchment forests) and it was only a matter of coming to some agreement about the acquisition of the timber and adequate payment for the land involved. Responding to concerns about payment of compensation, Corbett stressed that there had been no suggestion that any land would be taken for public purposes, but did not rule out the possibility. If any land was taken, he said, the Government had no intention of paying compensation below 'present-day value'.¹⁹⁵ This was an apparent reference to the earlier attempts of the

195. Corbett, 6 August 1952, NZPD, vol 297, p 771

Labour Government to purchase some Maori-owned blocks, which had been continued under his own direction. We refer to this issue further below.

By 1952, therefore, Corbett and his colleagues in Government had become convinced that the best option for the 'national asset' of Te Urewera forests and landscapes was a national park under the new Act. This was based on a combination of factors: scenic qualities, recreational values, and the protection of indigenous flora and fauna, as well as preserving important catchment forests for a range of purposes, including hydroelectricity generation. A park would also combat the saw-milling threat. And it would provide a means of breaking the deadlock over what was fast emerging as the 'problem' of continuing Te Urewera Maori ownership of nationally important forest areas.

Corbett would later reiterate in Parliament the importance he attached to national soil and water conservation issues in the decision to create a national park in Te Urewera, because:

no Government with any sense of responsibility would allow these vital areas [Te Urewera watersheds] to be denuded of their forests, endangering our water-supply, creating inevitably a flood menace on the rich, low land [of the Bay of Plenty], and also to a lesser degree removing a scenic beauty that can never be restored. That comes definitely third. The first is the water-supply; the second, soil protection and river control.¹⁹⁶

The national interest was of most concern to the Government: catchment forestry and water storage protection. Scenic protection, while of value, was no longer of key importance.

The Government's determination and its sense of urgency meant that there was no time and no real interest in exploring other possible options for state protections for Te Urewera at this time. But there were other options. Forest Service 'multi-purpose' management was a possibility, perhaps with more focus on providing some permanent sanctuary areas within the forest, as was done with Waipoua. This could have provided more opportunity for restricted milling in some areas to maintain the economic viability of Maori communities. This was the result in some other forest areas as a result of community concerns.

The Tararua Ranges, for example, were also being proposed as a possible national park at this time. They also contained important catchment forests and impressive landscapes, and were of great interest to recreational users and those seeking protections for indigenous plants and animals. Local communities had been using the ranges, most especially the foothills, for a variety of purposes since they had become ordinary Crown land many years before. These included camping, picnicking, tramping, hut building, hunting, and firewood collecting.¹⁹⁷

196. Corbett, 24 April 1953, NZPD, vol 299, p 264

197. Chris Maclean, *Tararua: The Story of a Mountain Range* (Wellington: Whitcombe Press, 1995), pp 183, 190

However, with the passing of the new Act in 1952, with its national emphasis and more rigid restrictions, questions were raised about the impact of such restrictions on current activities and possible loss of local control over uses of the ranges, including hunting. The Forest Service responded to these concerns with an experimental 10-year management plan, which took effect in 1954, for the ranges to be managed as a new kind of 'forest park' under 'multiple use' management, allowing a wider range of uses, and with local community input through a forest park board. The Forest Service also offered existing expertise and experienced rangers, not immediately available through a national park. The 'forest park' proposal was argued to be similar to existing woodland parks in Britain, where planted forests and very old woodlands were managed together under special provisions (including allowing for some milling).¹⁹⁸ The new National Parks Authority accepted that public support meant the experiment could go ahead and Tararua became New Zealand's first 'forest park' from 1954.¹⁹⁹ It was a popular option and similar 'forest park' management plans were implemented for other forest areas, with local interest group support, even before the first 10-year experiment ended. This resulted in formal legislative recognition of the 'state forest park', providing for 'public recreation and . . . enjoyment' of areas of state forest land, in conjunction with other purposes of state forests, in a 1965 amendment to the Forests Act.²⁰⁰ Twenty forest parks were established in the period from the amendment of the Forests Act to the mid-1980s.²⁰¹

Clearly, other options were available for protecting the forests of Te Urewera, even in the early 1950s. A different solution might have allowed for use of the forests by the resident Maori communities, but Corbett was determined to have the national park option for Te Urewera and he was not prepared to wait for other options to be discussed or tried. Even so, the establishment of the Te Urewera park was not as straightforward as he anticipated and eventually it occurred in two stages. The first, in 1954, created a relatively small park while just three years later, in 1957, it was substantially enlarged. We turn now to considering how and why this happened.

16.5.6 Why was Te Urewera National Park created as a small park in 1954?

The national park, as created in 1954, was considerably smaller than Corbett had wanted. This was because the question was by this time largely outside of his control. The responsibility for investigating and recommending the establishment of any new national parks now fell to the new National Parks Authority; a park could only be declared by Order in Council on the authority's recommendation to the Minister. The authority had its own concerns. It hesitated to recommend a large national park because it ran up against what was now being identified as the

198. National Parks Authority, minutes, 15 April 1953 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 58, 72)

199. Thom, *Heritage*, p 157

200. Forests Amendment Act 1965, ss 63A–63C

201. Department of Statistics, *New Zealand Official Yearbook 1990*, p 431

‘problem’ of Maori land in Te Urewera, It also wanted further information about whether the timber on those lands was commercially viable. Both of these factors made the authority hesitant to declare a large area of Te Urewera as park land.

The National Parks Authority met for the first time in April 1953. The question of creating new parks arose at once. The authority was required, as we noted above, to ‘have regard’ to representations made to it by the Minister to give effect to any Government decision, and conveyed to it in writing. The Minister’s influence was crucial in shaping its discussions about a national park in Te Urewera. He did not shrink from leaning on the authority, such was his anxiety to ensure that a large park would be created there. His commitment to a park would later be emphasised by the chairman of the National Parks Authority, who referred to the Minister’s ‘very strong views about the Urewera.’²⁰²

Corbett attended the authority’s inaugural meeting and urged it to make Te Urewera a priority for consideration as a national park. Information was distributed before the meeting indicating that preservation of the timber on some 400,000 acres of Crown lands in Te Urewera was essential for soil and water conservation, and that declaring the area a national park was probably the ‘most appropriate’ course of action. The authority was also informed that the Minister ‘had directed that urgent consideration be given to the constitution of the Crown owned areas as a National Park.’²⁰³ When Corbett addressed the meeting, the issue of Maori land in Te Urewera surfaced at once. He urged that ‘certain areas in the Dominion should remain inviolate from commercial exploitation, particularly the Tararuas and Urewera and more of the South Island alpine chain,’ adding that he referred to Te Urewera in particular because of ‘the problems of administration of Maori land.’²⁰⁴ Te Urewera should be a priority – partly, Corbett said, to assist the Government in its negotiations with Maori. The Government, as he had flagged in Parliament, wanted to purchase more Maori land for the park. It had already turned its attention to Maori land north of the Waikaremoana road previously suggested by officials ‘for scenic and water conservation purposes,’²⁰⁵ and to several other Maori-owned blocks.²⁰⁶ We discuss this development further below.

Corbett believed that it would be easier to buy Maori land if Crown land there was also designated national park to preserve the forests. There would then be ‘less difficulty’ in acquiring the Maori land because Maori would then be reassured that the Crown was genuinely interested in protection, rather than in acquiring forest land which it might then mill at some future time. If Maori were confident that the

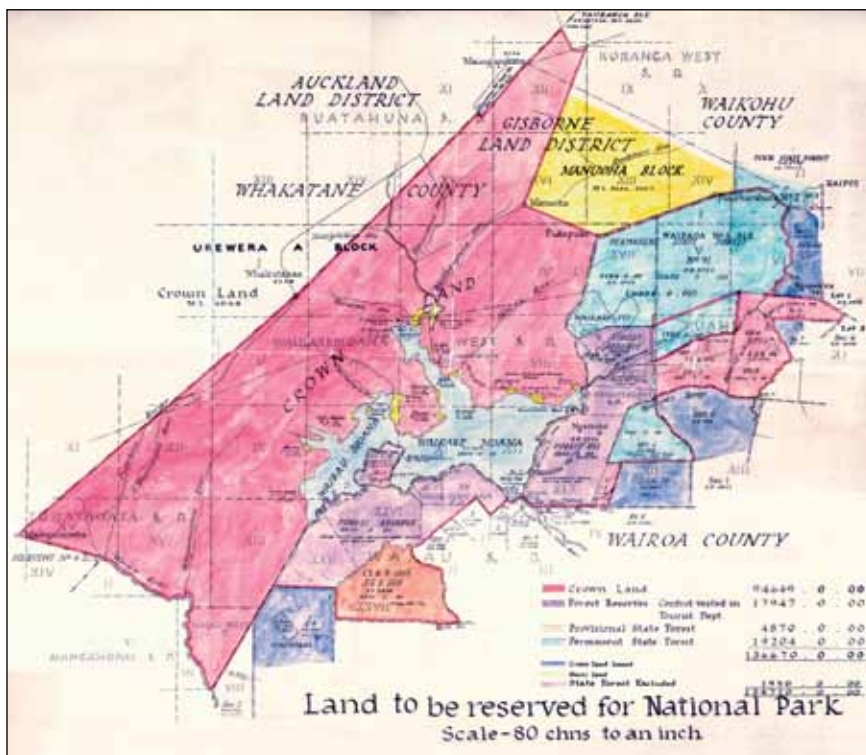
202. National Parks Authority, minutes, 19 August 1953 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 45)

203. Agenda for National Parks Authority meeting, 15 April 1953 (Campbell, ‘Te Urewera National Park’ (doc A60), pp 49–50, 53)

204. National Parks Authority, minutes, 15 April 1953 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 83–84)

205. Greig to Director of Forestry, 18 May 1948 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), p 70)

206. National Parks Authority, minutes, 15 April 1953 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 83–84)



Map 16.2: Land to be included in Te Urewera National Park at the time of its creation in 1954. The park's area would be significantly expanded only three years later, in 1957.

Crown genuinely intended conservation not commercial exploitation, this would assist him 'in his dealings as Minister of Maori Affairs':²⁰⁷

Now if we have a national park where we intend to preserve an area of virgin forest inviolate, we then immediately remove that suspicion that is in the minds of Maoris to-day, that the acquisition of areas inside the Urewera, the Tuhoe country, is being carried out with the ultimate intention of the Crown to exploit it. So I hope that the Urewera – the Crown land there, will be created a National Park and it will clear my way as Minister of Maori Affairs in my dealings with the Maoris. I have no doubt that the Maoris are still suspicious – they trust me but they don't trust Government. I have the Maoris regard in so far as integrity is concerned, but I would like to see that policy followed there.²⁰⁸

207. Ibid

208. Minister of Lands, address to inaugural meeting of the National Parks Authority, 15 April 1953 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 61)

Although Corbett mentioned ‘the Tararuas’, then also being considered by the authority as a national park, he clearly did not feel this area warranted such urgent attention. This was mainly, it appeared, because he did not consider it had the same ‘problems’ of Maori land ownership. Tararua could wait a little longer. This would mean, as we have noted, that the opportunity arose there to experiment with alternatives more appropriate to local community needs. But Corbett did not believe the Te Urewera forests could wait. Greig, the Director-General of Lands, was now, under the Act, also the new chairman of the National Parks Authority. He spoke in support of Corbett, arguing that ‘the conservation of the whole of the Urewera country depended on the acquisition of the balance of Maori land’. And he reiterated that the Crown could not secure the remaining Te Urewera land (the figure given was approximately 102,000 acres)²⁰⁹ if Maori thought the Crown wanted it for commercial timber exploitation: ‘Piecemeal purchases were being attempted but the Maoris had to be assured that if they sold the timber it would not be used for timber extraction but would be conserved in perpetuity. If the Maoris could be assured of this, acquisition would be assisted.’²¹⁰ He acknowledged, however, that there were insufficient funds to pay for all the land.

The Government’s position on acquiring Maori land – and the authority’s support for it – was ominous for Te Urewera communities. Corbett had had no discussions with their leaders. Tuhoe communities all stood to be affected by the creation of a national park, as did other peoples of Te Urewera who owned blocks adjacent to the proposed park. Tuhoe, Ngati Ruapani, and Ngati Kahungunu had been found by the courts to be the owners of the bed of Lake Waikaremoana. While Tuhoe had agreed to some forest protections on the steep catchments of the district, they had no reason to expect this would impact on their current uses of the land as ordinary Crown land. This was similar to the uses communities made of Crown ranges in other parts of the country. But a national park would be different. Already it was having a major influence on the Government’s approach to Maori land in Te Urewera. And there was no Maori representation on the new National Parks Authority, or even a Maori Affairs official who might have spoken for their interests.

In the short term, the authority’s anxieties about the complications Maori-owned land posed for a national park would have a considerable impact on their decisions about Te Urewera. Despite Corbett’s pressure for a large park, the authority moved cautiously. Its members were prominent men, many of whom had a long-standing interest in promoting national parks and they were clearly wary of making hasty decisions which might lead to parks being undermined by resistance and controversy. Though Corbett’s wishes clearly carried weight, the members proceeded to deliberate carefully and resolved to visit all potential national park areas before making their recommendations – although they did agree they

209. National Parks Authority, minutes, 19 August 1953 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), p96)

210. National Parks Authority, minutes, 15 April 1953 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), p93)

would visit Te Urewera first. They also called for maps of both Te Urewera and the Tararua Ranges (both having been proposed as national parks) showing 'State Forest and water conservation reserves, the status of the land otherwise and any privately-owned bush.'²¹¹

The authority met again on 19 August 1953 with the intention of making decisions on which national parks it would recommend, based on its own investigations and on official reports providing information on the proposed areas. The question facing members in respect of Te Urewera was how much land the new park should include. They had received a number of reports stressing the importance of the steep rugged mountain areas for both scenic and catchment purposes. This included one by eminent scientist WRB Oliver who gave his opinion that the rough mountainous nature of the country in Te Urewera and the covering of 'untouched' forest made it suitable for a national park. He noted that the kinds of forest (*rimu*, *rata*, *tawa*) made it different from the beech forest of Tongariro, and that in his assessment the land was too steep for farming. He recommended that the park include the area around Waikaremoana, and the headwaters of the Ruakituri River.²¹² Following an inspection in late June 1953, the Department of Lands and Survey also stressed the importance of the critical catchment areas while advising 'in the meantime' that the authority recommend only that land within the watersheds of Lakes Waikaremoana and Waikareiti should be declared a National Park.²¹³ This meant that the park would be considerably smaller than Corbett wanted.²¹⁴

The authority decided at its meeting to recommend a national park for Te Urewera and passed several resolutions to this effect. It decided also on a staged approach to the creation of the park. It recommended that, as a first stage, the watershed area of Lakes Waikaremoana and Waikareiti (approximately 83,500 acres), as well as areas of Crown land and scenic reserves along the Waikaremoana–Te Whaiti Road (approximately 3,500 acres), should be designated a national park. This was a total of around 87,000 acres (the final gazetted area would amount to just over 121,052 acres). The chairman had already told the Minister what was being proposed, and told the meeting that Corbett was 'not very happy about it'. However, the Minister was assured the authority was willing to consider a significant extension to the park once it became more knowledgeable about the district. It is clear from the authority's discussions that members decided to start with a small park for two main reasons. First, they were nervous about reserving in the park areas of timber that might be 'most valuable in the economy'; secondly, they

211. *Ibid*, p 91

212. Oliver was a botanist and ornithologist, and had retired some years earlier as director of the Dominion Museum: see WRB Oliver, 'Notes on Geology and Botany for Proposed National Park – Urewera Country', no date (Tony Walzl, comp, supporting papers to 'Waikaremoana: Tourism, Conservation & Hydro-Electricity (1870–1970)', 4 vols, various dates (doc A73(a)), vol 1, p 419).

213. National Parks Authority, 'minuted paper re Proposed New National Park – Urewera Country', 14 August 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 96)

214. Director-General of Lands to commissioner of Crown lands, Gisborne, 22 July 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp 102–103)

feared getting too close (in the meantime) to areas of Maori land. As one member explained: 'We are leaving out Crown land to the north and north-west which, of course, is largely interspersed with Maori land.'²¹⁵

The evidence indicates that the authority carefully considered the competing needs of catchment protection and commercial timber milling. Any future arrangement would require cooperation between the authority and the State Forest Service to ensure that forest areas with commercial potential were not included in the area it would recommend for a national park. But there was no voice on the authority to raise the economic interests of Te Urewera Maori communities, even though the chairman acknowledged that the district was 'substantially populated' by Maori. The authority made one recommendation about consultation with local Maori leaders: that they might be asked about the name of the proposed park. The names 'Waikaremoana', 'Urewera', and 'Tuhoē' were all suggested at the authority's August 1953 meeting.²¹⁶ The chairman, conscious of the importance of having 'the goodwill of the Maoris in that area' (as he put it), asked:

Would there be any tactical advantage by deferring the decision of a name and perhaps the Minister of Maori Affairs or some-one else saying to the Maori people, even although there is a lot of Crown land it is substantially populated by Maoris, whether their leaders had any name they would favour. They might have some historical name that might be of very great moment.

It was then decided to leave the matter to the Minister, who might 'consider it wise to discuss a suitable name with the leaders of the Maoris.'²¹⁷

In September 1953, in a press release, the Government welcomed the work of the National Parks Authority and the policies it was developing for national parks based on the objectives set out in the Act. These included encouraging preservation of the parks as much as possible in their natural state, the setting aside of special wilderness areas in them, and confirming the prohibition against taking specimens of flora and fauna except for authorised and agreed purposes such as scientific or educational reasons. It also included encouraging the provision of suitable hostels, camping grounds, and accommodation houses for public visitors. The Minister announced his approval of the authority's recommendation to declare a part of the Urewera country a national park under the Act. He explained that the authority had given preliminary consideration to the establishment of a national park in this area at its first meeting the previous April and had since visited and

215. National Parks Authority, minutes, 19 August 1953 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 46–47); (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp 100–101). It should be noted that there are two versions of the minutes of 19 August on our record (one filed in Edwards' supporting papers, and one filed in Campbell's); we have drawn on both.

216. National Parks Authority, minutes, 19 August 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p100)

217. National Parks Authority, minutes, 19 August 1953 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 48)

obtained reports on the area. The Minister made it clear that, important though this area was, with its scenic attractions at Waikaremoana, it was only the nucleus of a future park. More land would be added as opportunity offered. This would mean acquisition for public enjoyment and recreation of the 'last' compact area of forest and mountain country left in the North Island, country that was easily accessible (with the road through it from Wairoa to Rotorua) and within easy distance of the centres of Gisborne, Wairoa, Napier, Hastings, Opotiki, Whakatane, Tauranga, Galatea, Murupara, Rotorua, and Hamilton. The Minister intended inviting Maori who 'dwell nearby, and whose ancestral domain once included the wild and beautiful country of the nucleus, to intimate their wishes in regard to a suitable name'.²¹⁸

16.5.7 To what extent were Te Urewera leaders consulted about the establishment of the park, and what account was taken of the interests of the peoples of Te Urewera?

Up until this point, the interests of the peoples of Te Urewera had hardly rated a mention in all the discussion of the new park. This was despite the fact that Maori owners had continued to bring the issue of milling timber on their lands to the Government's attention. In late 1952, Corbett had refused consent to the sale of millable timber on three Ruatahuna blocks. Tuhoe leader Sonny White informed Corbett that the owners were 'extremely upset by the decision', and invited him to Ruatahuna to discuss the issue.²¹⁹ Their wish for dialogue increased when they learned of Corbett's enthusiasm for creating a national park in Te Urewera.

In January 1953, the *Rotorua Post* reported that Corbett was intending to visit Ruatahuna that month 'to discuss with members of the Tuhoe tribe, who own the large forests there, the proposal to form a Urewera National Park'. It was explained that a committee of Maori owners had been set up to discuss the proposal with the Minister, and Sonny White had been elected chairman. This was to be Corbett's first visit to Te Urewera. He would be able to see for himself the large areas of forest it was hoped to preserve as a national park as well as seeing 'the land development work of the Urewera Maoris'. Interviewed by the paper, White indicated that the forest owners 'wanted to see large portions of it preserved as a national park'. But there were 'tracts also which should be developed to support the Maori people who lived in the hills'. They hoped that the Minister would look at the land and come to an appreciation of their point of view.²²⁰ This report produced at least one further Tuhoe response – a telegram to Wellington signed by Tui Tawera (then secretary of the Western Tuhoe tribal executive) 'for the Tuhoe people'. The telegram read: 'We, the confederation of tribes of the Tuhoe people kindly ask you to advise the Hon Minister of Lands that we refuse to enter into negotiations with

218. Department of Lands and Survey, press release, 29 September 1953 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), pp 414–418)

219. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 340

220. *Rotorua Post*, 24 January 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 82)

the Government on the question of preserving the Urewera forest as a National Park.²²¹ Tawera was among those leaders who worked to get resolution of the issue of the unfinished arterial roads – about which Tuhoe had sent a major petition in 1949 – and also to secure the interest that Ngati Ruapani considered remained owing on their debentures since 1932 (see chapter 14). His message thus reflected general dissatisfaction with the Government's intent to tie up the forests of Te Urewera in a national park, while a range of past and current grievances remained unaddressed.

The possibility of Tuhoe questioning the park proposal prompted a lengthy memorandum from the Director-General of Lands, Greig (dated 6 February), in which he reminded the Minister that he had already made a statement to the Forest and Bird Protection Society some months earlier that Te Urewera would be set apart as a scenic reserve or national park. Greig wrote diplomatically that 'some of the newspaper reports on your statement were rather misleading with the result that the local Maoris thought that their interests were being overlooked'. Officials had subsequently noted a hardening of attitudes among owners of the various blocks the Crown was trying to buy 'for scenic purposes', having prohibited the sale of timber-cutting rights to private sawmillers (we discuss these restrictions further below). Greig understood that reports that Corbett intended to visit Tuhoe at this time were mistaken, but he advised Corbett to take the opportunity to make a personal visit to Te Urewera 'to explain the Crown's objectives to the Maoris'. He suggested that now there was publicity about a possible impending visit (even though inaccurate) this might be the right time for him to go.²²² Corbett resisted this suggestion, replying that he would make his visit 'at a later date'. It seems that he preferred to wait until the new National Parks Authority had considered the question of creating a park in Te Urewera.²²³ In fact, Corbett did not go to Te Urewera until December 1953, after the authority had made its recommendation to him. Given the powers of the authority, he may have felt that an earlier visit by himself would have been premature, but it meant that the authority visited Te Urewera without any high-level contact having been made with Te Urewera leaders.

Corbett's eventual visit to meet Tuhoe in December 1953 was a very important occasion. The proposed national park had not yet been gazetted, and did not even have a name. Corbett, as we have seen, was already determined to create a national park. He still intended to pursue his policy of purchasing Maori land, but it seems that the January newspaper reports, and Greig's consideration of them, may have led him to reconsider his approach.

221. T Tawera to Tiaki Omana, 30 January 1953 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p 428)

222. Director-General of Lands to Minister of Lands, 6 February 1953 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), pp 431–433)

223. Director-General of Lands to chief surveyor, 2 March 1953 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p 429)

By visiting Te Urewera, Corbett would finally have to face the reality of Tuhoë's determination to stay on their own lands and their unresolved grievances, including timber milling restrictions. In preparation, Corbett sought cabinet approval to make a proposal to Tuhoë.²²⁴ With the crucial catchment forests safely embedded in the proposed park, he said, the 'blanket ban' on milling on Maori land over the whole district could be reconsidered.²²⁵ Corbett acknowledged in his submission to Cabinet that '[t]he Maoris do not wish to sell their land, and because of protracted negotiations, consent to mill timber should not in equity be withheld any longer.'²²⁶ It might now be possible to allow Maori to retain, clear, and develop some of their land, while the Crown would purchase the rest and add it to the new park. Corbett did no more than sketch the broad direction of his suggested new approach, the crux of which was to identify land that could be safely milled, with the Forest Service and Maori together establishing 'a suitable formula for long term management' equitable to Maori, yet 'meeting in full the requirements' of watershed and scenic protection.²²⁷

The problem with Corbett's approach to the park was that he appeared to know very little about Te Urewera communities, or the history of the Urewera Consolidation Scheme which had produced both the Crown's award, and the final demarcation of the lands Maori would retain. He understood simply that the Crown had a very large block of land whose future needed to be decided, that significant pockets of adjacent Maori land were a complication, and that sawmillers were threatening essential forests. By the time he went to Te Urewera he had publicly committed himself to a park, and to the importance of continuing to acquire Maori land.

It was not until he arrived at Ruatahuna, a few days after Cabinet had approved his proposal, that Corbett was confronted with the full force of Tuhoë feelings about the long history of Crown policy in Te Urewera.²²⁸ This crucial hui was attended by many Tuhoë land owners, and clearly considerable thought had been given as to how best to present their case to the Minister. In his opening address, Sonny White welcomed the first Minister of the Crown to visit them in 20 years. He began by emphasising that, for Tuhoë, the discussion concerned their turangawaewae and their survival as a people. He told Corbett:

The owners of the Ruatahuna lands are all united in one wish – that they want to return home to live on their own lands. . . . The problems which both you and

224. Cabinet Secretary to Minister of Forests, 7 December 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 114)

225. 'Main remarks of Mr Greig at meeting of owners at Ruatahuna on the 18th October 1955 when over 100 Maori people of Ruatahuna and their representatives at law (bush and otherwise) were present' (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(b)), p 228)

226. Minister of Forests to all members of Cabinet, [circa 6 December 1953] (Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p 122)

227. *Ibid*

228. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp 123–124

ourselves are facing to-day are not only of the soil and the trees but they are mainly of the fate and souls of the Tuhoe people. Deny these people their land and they must suffer severely.²²⁹

He confirmed that, as Corbett had told Cabinet, Tuhoe were reluctant to sell. But he also indicated this went far beyond a reluctance to accept Government prices. Tuhoe did not intend to part with any more of their land; they wanted to try to develop it (through farming and forestry) so it could support them. White highlighted the injustice of preventing the people from realising the economic benefits of the lands left to them after a history of loss. This had occurred even in his own lifetime, White said, when the Urewera Consolidation Scheme had not resulted in a positive outcome for Maori owners. He drew a direct link between the history of Government actions in Te Urewera, and Tuhoe suspicion of Government moves which might lead to further land loss, whether by purchase or otherwise:

We will explain to you later how many of us have sacrificed a lot to enable us to consolidate our interests at Ruatahuna and now we find that after such sacrifice it is the proposal of certain Government Departments that we should sell this sacred land. We do not understand why we are denied the right of milling the timber and developing the land, when only a few miles from here the State Forest Service sold a large block of standing timber not less than 3 years ago.

Offers have been made by the Government Departments to purchase certain areas as scenic reserves. The elders of our people agree that in principle certain portions of their land should be made available to the State for scenic preservation but due to the inherent suspicion of past Government moves, the people have not been prepared to sell voluntarily any one piece of their land. . . . It is important that you should hear this history from our point of view as we feel it shows how the Maori rights in the area have been gradually reduced. You can also see how our people are very suspicious of any moves which any Government may make to take away from us, whether by purchase or otherwise any more of our land.²³⁰

Sonny White and John Tahuri outlined their hopes for development on their own lands, their need for employment and ongoing income to sustain their communities, and their frustration with Government restrictions. John Rangihau reminded the Minister about the problems facing the Ruatahuna community. He estimated 350 to 400 people were still living there on the land. There were 10 marae and an effective tribal committee, as well as a branch of the Maori Women's Welfare League, but opportunities for education and work were limited. Half of the community had been compelled to leave. Nevertheless, Rangihau, like White, emphasised that they 'still look on the Urewera district as their real home habitat'.

229. 'Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953, minutes, 10 December 1953, MA 1 19/1/135, pt 2, Archives New Zealand, Wellington

230. Ibid

Unknown



John Rangihau. A widely respected Tuhoe leader, Mr Rangihau was appointed to the Urewera National Park Board in 1960, at a time when Tuhoe was facing continual Crown pressure to acquire small remaining 'enclaves' of Maori land for the National Park. He struggled to impress on the board that Tuhoe were determined to hold onto their lands and that they must be able to derive some economic benefit from them.

Two Pakeha, the Reverend JG Laughton and J Keane (one a long-time friend who had come to Te Urewera as a missionary 35 years before, the other a lawyer who had clearly spent time trying to understand the history of Tuhoe land loss), spoke in support of Tuhoe. They emphasised the importance of Tuhoe's ancestral connection with the land and forests, the history of delayed and forgotten 'pledges' that their lands would be preserved to them, and the heightened importance, when so much of their land now belonged to the Crown, of developing the remainder for their own benefit (see the sidebar over).²³¹

It was this history, Keane said, which explained why Tuhoe were so opposed to losing any more land to a national park:

The Tuhoe people have always had a pride in their ancestral land and now with so little of it left, they desire to keep that and to work it for themselves. If they are not permitted to sell [a] portion of the timber on the lands, they will remain the owners of a valuable asset with which they cannot deal. They will thus lose the use of large areas which would be available after clearing for development and they will also lose timber royalties, with which they could develop the cleared lands.

231. 'Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953', minutes, 10 December 1953, MA 1 19/1/135, pt 2, Archives New Zealand, Wellington

The Importance of Tuhoe Lands and their History, as Explained to Corbett

At the December 1953 meeting in Ruatahuna, the overwhelming importance of their lands to Tuhoe was underlined by Reverend Laughton:

They are very much the people of these hills. This countryside is part and parcel of their life. Every man and woman here traces their ancestry to one or other of a group of illustrious names and each one of those names is identified with a mountain . . . These are not mere matters of sentiment, but are indications of the manner in which the whole life and history of these people is integrated in this majestic land.

Laughton warned that if they were unable to extend the use of their remaining lands so as to sustain a higher proportion of their growing families, they would 'suffer that kind of deprivation which again and again around the world has planted deep roots of bitterness and animosity between race and race'. Traditional community life had survived in Te Urewera:

Family life is emerging but does not yet take over from the tribe, which from time immemorial supplied the sanctions and disciplines of life and gave direction to its pattern. . . . The community takes responsibility and there is always sanctuary in the community for every member of it, but the title to that life with all its rich social heritage, is in the share, however small, in the tribal land which is the basis of the whole tribal structure. There is nothing that these people fear more than that any of them might lose a bit of land which is their title to their place in the tribe.

If Maori lost their turangawaewae, if they no longer had a place to stand, they would become 'homeless wanderer[s]':

The solicitor for the Ruatahuna landowners, Mr Keane, turned then to the political history and the promises that had been made by the Crown. Keane began by asking why negotiations had broken down between Tuhoe and the Crown in the 1930s and again in the past two years. He told the Minister of Maori Affairs, EB Corbett, that a 'brief history . . . of the Urewera lands should throw considerable light on the attitude of the owners and you will be able to appreciate that a very serious problem is involved'.

Keane then traversed the visit of Premier Seddon and the Minister of Maori Affairs in 1896, the agreement then negotiated, and the UDNR Act. Carroll was quoted as supporting Tuhoe's 'ardent wish' to have the land 'preserved to them' and Seddon as acknowledging an earlier promise of McLean, in about 1870, that Tuhoe would be able to 'conserve their lands to themselves'. They still looked for those promises to be fulfilled: 'That pledge was given 80 years ago, was confirmed 60 years ago and the owners request that it be maintained.' He went on to note that

despite the promises, 'their ancestral lands have, over a lengthy period, been whittled down'. Between 1896 and 1921, the Crown had acquired about 345,000 acres at 15/- per acre, including 70,000 acres in Te Whaiti where timber was being milled at a 'considerable profit' to the Forest Service of £75 per acre. The consolidation commissioners and Ngata were quoted as supporting the wish of the young people of Tuhoe to be put in a position to be able to farm some of their lands.

Keane reminded the Minister of the large amounts of land that Maori owners had contributed at the time of consolidation for surveys and for arterial roads. The rest they wished to keep for themselves.¹

1. 'Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953', minutes, 10 December 1953, MA 1 19/1/135, pt 2, Archives New Zealand, Wellington

Furthermore, if more of their lands were set aside for a national park, Tuhoe would lose potential employment in the timber industry, one of the few economic opportunities that could keep their young people at home until farm land was available to them.

The Crown already owns nearly half a million acres in that area and the owners feel that that area is quite sufficient for a National Park. If the small area left to them is also taken for a National Park, they will lose those lands forever and will receive in exchange, money which will be of no use to them as they will not have the lands to use it. The ancestral lands will be gone and the Tuhoe people scattered.²³²

Keane suggested a compromise. While the owners would not agree to land sales, he thought they would make a 'solemn pledge' to preserve the forest of the high country and the scenic road provided that the Government gave something 'realistic' for the sale of timber and development. He then outlined a basic classification system of farmable, intermediate (safely millable), catchment, and scenic land along the main road. Ultimately, he urged, Corbett must 'weigh the welfare of these people against the advantages to the Nation'.

And Sonny White entreated the Minister:

We say, without any hesitation at all that it would be wrong, very wrong, to make all of our country National Park, as we know a lot of it can be farmed as soon as the forest is removed and secondly we are sure that in the years to come a lot more of it can be

232. 'Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953', minutes, 10 December 1953, MA 1 19/1/135, pt 2, Archives New Zealand, Wellington

brought into sound and productive farm land . . . If you decide that no further areas are to be developed and no further forest is to be cleared, we feel that you are condemning Ruatahuna to stagnation and we know that this means a social problem. . . . Unfortunately the land being farmed is not adequate to support our population and many have to go away to earn their living. If we had more land then we could produce more for the good of the country and would support more of our people. Deny us this and you create a human erosion problem.²³³

The authors of the Tuawhenua Report suggested to us that this vision reflected a simple strategy for economic development: clear all the land suitable for farming, undertake controlled logging of the intermediate areas; establish a sawmilling industry for employing the young; use the royalties to develop the land; transport milled logs to a railhead which could be then back loaded to Ruatahuna with fertiliser.²³⁴ This was the competing vision of a Tuhoe community for continuing to survive on ancestral lands with some hope of a viable economic base. And it required a response from the Minister that recognised the impact a national park would have on their community, and offered a realistic solution.

Corbett's reply to Tuhoe indicated that he was only now realising the full implications of balancing his national park protection policy with what he clearly saw as the justified grievances of Tuhoe. Corbett told the people that while he had inherited the policy of restricting timber milling on Maori land, he had followed it because he thought that 'basically, the policy is right.'²³⁵ He emphasised that the soil erosion problem affected New Zealand as a whole, as did preservation of the 'last remaining' native bush (the national interest). On the other hand, he signalled his readiness to compromise with local community concerns when he told the meeting that he did not want 'to see the Maori of to-day starved' while making provision for the various elements involved in the future of the area:

I have been looking for a solution to the problem of how I could keep the big rahui (reserve) and we are going to have a national park and at the same time I want to see it substantially enlarged. I want to see the scenic beauty of this marvellous road, which will be your memorial in 100 years' time, preserved and I want to see you get some use out of your timber and that land that is worth farming under to-day's conditions. . . . I want to see protection given to the farm lands below. I want to see the water shed protected. I want to see the Maoris with the right to use what is theirs.²³⁶

233. 'Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953', minutes, 10 December 1953, MA 1 19/1/135, pt 2, Archives New Zealand, Wellington

234. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 343

235. 'Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953', minutes, 10 December 1953, MA 1 19/1/135, pt 2, Archives New Zealand, Wellington

236. Ibid

Corbett now returned to the older proposals of possible exchanges of Maori forest land required for protection purposes for suitable Crown-owned land elsewhere in Te Urewera; which he described as ‘Tuhoe land’.²³⁷

The Ruatahuna hui thus seemed to mark a turning point: Tuhoe had had the opportunity to put to the Minister their case for preserving their lands, and for the first time Corbett seemed to appreciate that Maori interests must be taken account of. Both sides came away from the hui believing that progress might at last be made. For Tuhoe, the signs that they might gain real Crown assistance must at first have seemed especially promising. But, as Neumann noted to us, Corbett’s policy was most remarkable for what he did not discuss, including what he now intended with his policy of purchasing Maori lands.²³⁸

The records of the Ruatahuna meeting also indicate that while Corbett spoke of a national park or big ‘rahui’ (reserve) and the possibility of extending it, he did not explain the implications of this under the new National Parks Act for Tuhoe communities in terms of their continued use of what would now be national park forests. In fact the new national parks legislation anticipated considerably more restrictive protections than had been the case before: local communities all over New Zealand were used to utilising unsettled Crown land in rugged ranges and catchment forests for purposes such as hunting, and even in national parks, until now, practical administration had been more lax and responsive to local interests (if not Maori ones). A number of interest groups had managed to secure protection for their own activities and interests under the new National Parks Act, but its focus on national issues and more centralised control had already begun to raise questions (as happened in respect of the Tararua Ranges). The new Act, as we have seen, offered no acknowledgement of Maori concerns or representation in new park structures. It is not clear to what extent Tuhoe appreciated the implications of a new national park in their midst, or what they understood (or thought Corbett meant) when he used the term ‘rahui’. This was the case with the smaller area recommended for a park in 1954, but even more so for the larger park Corbett wanted. If Corbett had raised these issues, there might have been some opportunity to clarify matters or to begin discussions on Maori use of park lands and resources, but it seems he did not. He does not seem even to have raised the proposed name of the national park at this time, in spite of the recommendation of the authority. The other major issue Corbett failed to discuss was the Government’s wish to continue to purchase Maori land in Te Urewera. He did resurrect the possibility of land exchanges, leaving Tuhoe with the expectation that their communities would receive some economic support, especially as they seemed at last on the verge of being able to take advantage of some selected commercial milling.

237. ‘Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953’, minutes, 10 December 1953 (Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), p124)

238. Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), p123

Following the discussions at Ruatahuna, Corbett established two official committees to negotiate the details of the solution proposed to meet Tuhoe wishes. It was left to officials, at one of these meetings, to raise the issue of the name for the proposed national park. In March 1954, the members of the Urewera Land Use Committee, appointed in March 1954, met with Maori representatives Sonny White and John Rangihau at the Maori Land Court. At the very end of this meeting, Greig (who represented the Lands Department on the committee, and was also chairman of the National Parks Authority) raised the question of the name of the proposed park, asking that it also be considered at the meeting to be held at Ruatahuna later that week. The options were evidently discussed at that hui.²³⁹ The authority chairman reported to the secretary for internal affairs that the 'representative' meeting of the Tuhoe people had recommended the name 'Urewera' be adopted.²⁴⁰ Campbell noted, on the basis of personal communication with Tama Nikora, that it is more likely that local Maori elders actually chose the name 'Te Urewera' National Park, not 'Urewera National Park'.²⁴¹ We agree.

Once Tuhoe had been consulted about the park's name (further discussed later in the chapter), the Crown proceeded to gazette the smaller national park area as recommended by the National Parks Authority. The 'Urewera National Park' was established in July 1954, containing just over 121,052 acres.²⁴² This comparatively small park was centred on Lakes Waikaremoana and Waikareiti. It included much of the Waikaremoana scenic area surrounding the lake, long identified as the most scenic of the district landscapes, large areas of indigenous forest with native birds, and the crucial catchment and water storage areas to be held in the national interest. As explained in the first National Parks Authority bulletin, it preserved 'the many attractive scenic features and innumerable places of historic interest', while safeguarding the catchment 'on which depends the efficient functioning of the hydro-electric power installations of Kaitawa, Tuai and Piripaua in the Waikaretaheke Valley'.²⁴³ The beds and waters of 'all smaller lakes, rivers, and streams' were included in the park.²⁴⁴ The Maori reserves in the Waikaremoana block were excluded from the park – though, as we shall see, this exclusion

239. The intended date of the meeting (27 March 1954) is referred to in the minutes of the inaugural meeting of the Urewera Land Use Committee. See Urewera Land Use Committee, minutes, 24 March 1954 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p124). The minutes refer throughout to 'Mr Gregg', but it is clear that Greig's name has been mis-spelled.

240. Chairman, National Parks Authority, to the secretary for internal affairs, 1 April 1954 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p107)

241. Campbell, 'Te Urewera National Park' (doc A60), p55

242. 'Lands in South Auckland and Gisborne Land Districts Declared to be a National Park', 29 July 1954, *New Zealand Gazette*, 1954, no 46, pp1211–1212

243. National Parks Authority Bulletin no 1, 1954 (Campbell, 'Te Urewera National Park' (doc A60), p54)

244. Beds and waters of these waterways were specified in the second schedule to the Order in Council, which designated Crown land subject to the provisions of the Land Act 1948, to be included in the park: see 'Lands in South Auckland and Gisborne Land Districts Declared to be a National Park', 29 July 1954, *New Zealand Gazette*, 1954, no 46, p1212.

remained a constant irritation to the Government and park administrators, who attempted over a number of years to ensure they were added to the park.

16.5.8 Why was the national park expanded in 1957, and were Te Urewera leaders consulted?

We now turn to consider why, just three years later, the park area was considerably expanded and, this time, most of the rest of the Crown land in the district was included. For the peoples of Te Urewera, particularly Tuhoe, this expansion was of much greater significance for their future than the 1954 creation of the park. As the Crown's vast block of land was absorbed into the park, their own lands now adjoined the park or were enclosed by it. From an administrative point of view they became untidy 'pockets' in and around the new park entity. The inclusion of Crown land was justified on the grounds that this might encourage Maori to offer their own land, and though this was not successful at the time, Crown attempts to secure Maori land continued for years afterwards. A key reason for subsequent developments was the discovery that the Crown did not have enough farming land to offer Tuhoe in exchange for their land that was wanted for the park.

The Urewera Land Use Committee, set up at Corbett's direction after the meeting, was tasked with classifying Maori land around Ruatahuna into areas that could be milled, and areas that should be left substantially untouched. It reported to another committee established by Corbett, the 'Principal Committee' – a special interdepartmental committee of senior officials from the Departments of Lands, Forestry, and Maori Affairs – to negotiate with Tuhoe over the proposed solutions.²⁴⁵ The land use committee worked hard on classifying land around Ruatahuna so that by mid-1955 it had completed its task in the area.²⁴⁶ Some 45,000 acres were classified (see sidebar over).²⁴⁷

The committee's work allowed Maori land owners around Ruatahuna to realise a considerable proportion of their timber assets (we discuss this further in chapter 18). To this extent, therefore, the Crown's new policy was a success. There were, however, limits to that success. The committee's activities were largely confined to Tuhoe lands around Ruatahuna. The owners of forest land at Maungapohatu, at Manuoha and Paharakeke, and in the Te Whaiti blocks, as well as owners of land in the Whakatane and Waimana River valleys, were not party to the agreement.²⁴⁸

245. A L Poole, 'Urewera Maori Lands: Summary of Forest Service Activities 1953–1957 when Hon EB Corbett was Minister of Lands and Forests', 6 October 1960 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p111)

246. Director-General of Lands to commissioner of Crown lands, Hamilton, 1 April 1954 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp115–117); Boast, 'The Crown and Te Urewera in the 20th Century' (doc A109), p196; Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p124; Campbell, 'Te Urewera National Park' (doc A60), p69

247. Minister of Lands to all members of Cabinet, 24 June 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p126). Campbell provided a good outline of the workings of the Urewera Land Use Committee. See Campbell, 'Te Urewera National Park' (doc A60), pp65–69.

248. Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), pp124–125

The Urewera Land Use Committee: Classifying Land and Forest for Milling or Preserving

The Urewera Land Use Committee was appointed in March 1954 as a non-statutory body without legal powers, originally consisting of representatives of the Departments of Lands, Forestry, Works, and Agriculture. Duncan MacIntyre (representing the Department of Maori Affairs) was convenor and secretary. Sonny White and John Rangihau represented Maori land owners at an 'exploratory' meeting on 24 March. It was agreed that Sonny White join the committee, as well as an official from the Department of Maori Affairs in Rotorua.¹ White was soon after elected chairman.² The Land Use Committee classed Maori land according to the level of milling that should be allowed. There were three categories of land, and most blocks contained land in each:

- ▶ Class A – areas from which the forest could be removed entirely, making way for farming;
- ▶ Class B – areas on which timber could be removed, but where undergrowth should be left to regenerate because the land was not suitable for farming;
- ▶ Class C – areas which must remain as protection forest or where the forest was required for scenic purposes.³ It was later agreed that particular trees marked out by the Forest Service could be milled on C class land.⁴

By June 1955, the Land Use Committee had classified 48 blocks around Ruatahuna, totalling 45,000 acres. Most of the land (26,732 acres) was categorised as generally unsuitable for milling; 8,043 acres was classified for restricted milling,

1. Urewera Land Use Committee, minutes, 24 March 1954 (SKL Campbell, comp, supporting papers to 'Urewera Overview, Project Four: Te Urewera National Park, 1952–75', 2 vols, various dates (doc A60(a)), p 121)

2. SKL Campbell, 'Urewera Overview, Project Four: Te Urewera National Park, 1952–75' (commissioned research report, Wellington: Crown Forestry Rental Trust, 1999) (doc A60), p 66; Director-General of Lands to Commissioner of Works, 1 April 1954 (Heather Bassett and Richard Kay, comps, supporting papers to 'Ruatahuna: Land Ownership and Administration, c 1895–1990' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A20(b)), p 95). The committee members were: Collett and Lysaght for the State Forest Service; Linton for Maori Affairs; Hayman for the Ministry of Works; and Hewitt for the Department of Agriculture.

3. A L Poole, 'Urewera Maori Lands: Summary of Forest Service Activities 1953–1957 when Hon EB Corbett was Minister of Lands and Forests', 6 October 1960 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 112); Bassett and Kay, 'Ruatahuna' (doc A20), pp 188–189.

4. Klaus Neumann, "'... That No Timber Whatsoever Be Removed: The Crown and the Reservation of Maori-Owned Indigenous Forests in the Urewera, 1889–2000' (commissioned research report, Wellington: Waitangi Tribunal, 2001) (doc A10) p 124; district officer, 'Basis of Agreement Reached between Members of the Principal Committee Messrs Greig, Ropiha, Poole (Barber, Secretary) and Judge Harvey', 18 January 1955 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(b)), p 118)

and 4,762 acres as suitable for farming. Almost all blocks had some land classified as unsuitable for milling.⁵ The special Principal Committee then confirmed these classifications, and began to use them as the basis for negotiations with Tuhoe.⁶ The Maori Land Court also agreed to use the land classifications as the basis for approving milling consents.⁷ Subsequently, milling licences were granted for most of the Ruatahuna lands classified as 'A' or 'B' and much of this land was milled.⁸

5. Minister of Lands to all members of Cabinet, 24 June 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 126). Campbell provided a good outline of the workings of the Urewera Land Use Committee: see Campbell, 'Te Urewera National Park' (doc A60), pp 65–69.

6. Bassett and Kay, 'Ruatahuna' (doc A20), p 190

7. Richard Boast, 'The Crown and Te Urewera in the 20th Century: A Study of Government Policy' (commissioned research report, Wellington: Waitangi Tribunal, 2002) (doc A109), pp 196–197; Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p 138; Kinloch, Department of Lands and Survey, to Rotorua Maori Land Court, 18 January 1955 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(b)), p 117)

8. Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p 138; Brian Murton, 'The Crown and the Peoples of Te Urewera, 1860–2000: The Economic and Social Experience of a People' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc H12), p 775

Most importantly, however, the work of the committee raised the question of how the Crown would compensate Tuhoe in respect of lands which the committee decided should not be milled. And if they could not be compensated in land, what alternatives remained if the Crown wanted to preserve the forests? The Crown's answer, in fact, was to buy the land for the park.

Negotiations over how to compensate Maori for the ongoing restrictions on developing their B- and C-class land were soon derailed by some already familiar problems. As we have seen, when Tuhoe representatives had agreed to Corbett's new policy framework in the December 1953 meeting, the only form of compensation discussed with them was land exchange.²⁴⁹ Tuhoe were prepared to negotiate on that basis, as Sonny White explained: 'We want high country land exchanged for Tuhoe land now in the possession of the Crown wherever possible as we do not wish to shift out of the Urewera. We are happy there.'²⁵⁰

But it became apparent that, at much the same time as the committee was finishing its work in June 1955, the Lands Department was reaching the conclusion

249. Director-General of Lands to commissioner of Crown lands, Hamilton, 1 April 1954 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp 115–118)

250. Urewera Land Use Committee, minutes, 24 March 1954 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 120)

that it did not have enough land suitable for farming to provide in exchange for the land deemed necessary for forest protection. It had only about 12,500 acres in the Whirinaki and Minginui Valleys suitable for the purpose. However, this land was valued at just £30,000 which, as we will see, was well below the value of the Ruatahuna land and timber that could not be milled. There were likely to be further difficulties in matching exchanges fairly to the value of the timber. The Crown decided it was better not to try.²⁵¹

Buying Maori land in fact remained absolutely central to the Crown's agenda, though Crown officials said nothing to Tuhoe about these plans during the delicate time when the land use committee was classifying land. In the first years of the park administration there were repeated references by both senior Crown officials and park administrators to plans to negotiate to buy Maori land, plans which were of course 'closely linked' to the work of the land use committee.²⁵² As the Director-General of Lands put it to the commissioner of Crown lands, Gisborne: 'There are already quite a few areas of Maori land which are subject to a prohibition of cutting rights . . . All of these areas must ultimately come into the Park.'²⁵³ Officials shared a confident expectation that it was only a matter of time before Maori were compelled to sell such land, allowing the park to 'ultimately become a large rounded out area.'²⁵⁴

Thus, in 1955 the Crown moved again to a focus on outright purchase. In a memorandum to cabinet in mid-1955, Corbett supplied valuations for B and C category lands, as well as minimum Forest Service royalty rates for timber in C areas. The latter figure was £142,905; but, as Corbett pointed out, the owners would want full market rates for their timber, which would amount to about £250,000. He gave a total figure for the cost of B-class land and C-class land and timber of about £300,000, and recommended that Cabinet approve expenditure of this amount. He did not think the answer was to allow the lands to remain in Maori ownership with 'absolute prohibition against milling'; in fairness to the owners, they should be compensated in cash.²⁵⁵ The Minister added that, given the amount and cost of land the Crown had already acquired in Te Urewera by the end of the consolidation scheme – 345,076 acres for under £200,000 – the total cost to the Crown of acquiring this region would amount to £500,000, which he thought 'not

251. Minister of Lands to all members of Cabinet, 24 June 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p126); Campbell, 'Te Urewera National Park' (doc A60), p70

252. Bassett and Kay, 'Ruatahuna' (doc A20), pp 209–210

253. Director-General of Lands to commissioner of Crown lands, Gisborne, 30 September 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p109)

254. Urewera National Park Annual Report for year ended 31 March 1954 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p138); Urewera National Park Annual Report for the year ended 31 March 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp139–140); Urewera National Park Annual Report for the year ended 31 March 1956 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp144–146)

255. Minister of Lands, memorandum for all members of Cabinet, 24 June 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), pp125–127)

unreasonable especially in view of the present value of the asset to the country.²⁵⁶ In other words, the Crown would secure an important asset for a reasonable price. He did not comment on how this would meet the Crown's responsibility to Tuhoe communities. Cabinet duly approved expenditure of £300,000 'for the purchase of Maori lands in the Urewera'.²⁵⁷

Corbett's principal committee took the changed policy to Tuhoe at Ruatahuna in October 1955. Officials emphasised the new focus on land purchase and the fact that there was limited land for exchange, but did not reveal how limited.²⁵⁸ The Crown would buy the B land which was unsuitable for farming, and would be prepared to buy the land and timber on C land. Not surprisingly, Corbett's 'solution' now began to unravel. Officials and owners became embroiled in disagreements over the process of appraising Ruatahuna timber blocks in order to assess timber values and classify the land into A, B, and C categories. Piecemeal negotiations proceeded in fits and starts, and soon stalled.²⁵⁹ Meanwhile, milling continued around Ruatahuna, albeit still largely based on the land use committee classifications. Encouraged, sawmillers began making offers to mill the large and hitherto untouched Maungapohatu blocks.

In the end, Corbett, frustrated with the limited success of efforts to acquire the Ruatahuna lands for the national park, decided that the time had come to put all remaining Crown land into the park. In March 1957, after another year of Maori landowners hanging on tenaciously in spite of Crown purchase efforts, the Minister's principal committee, charged with negotiating with Tuhoe, confirmed that the perceived Crown reluctance to put its own land in the park was causing them some difficulty:

the Maoris in the Urewera view with some concern that although the Crown is quite prepared to buy their land for addition to the National Park no effort is being made by Government to add the large block of Crown land in the Urewera to the National Park. This state of affairs could be somewhat embarrassing as far as the Crown's negotiations in the Ruatahuna Region are concerned.²⁶⁰

The committee concluded that a decision was now required on whether Crown land would be added to the park.

256. Minister of Lands to all members of Cabinet, 24 June 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p126); Campbell, 'Te Urewera National Park' (doc A60), p70

257. Secretary of the Cabinet to Minister of Lands, 15 August 1957, AAFD W2347/811, CAB 271/3/1, Archives New Zealand, Wellington; see also A L Poole, 'Urewera Maori Lands: Summary of Forest Service Activities 1953-1957 when Hon EB Corbett was Minister of Lands and Forests', 6 October 1960 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p113

258. Bassett and Kay, 'Ruatahuna' (doc A20), p195

259. Bassett and Kay, 'Ruatahuna' (doc A20), pp194-196, 198

260. Director-General of Lands to Poole, 'Principal Committee, Addition to Urewera National Park', 22 March 1957 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p149)

Matters came to a head in mid-1957. In July 1957, a forest ranger reported that the Pamatanga block (a block of 403 acres in the Ruatahuna series) was being milled, and urged that the position be ‘critically examined in the public interest.’²⁶¹ This was despite Pamatanga being zoned c (to remain as forest) by the land use committee. The deputy registrar of the Maori Land Court at Rotorua immediately filed an application for an injunction to stop milling. Judge Prichard dismissed the application in his decision of 15 July 1957, on the grounds that no legal wrong had been done by either the owners or the millers. The three owners, who had all agreed to the cutting of the timber, had decided not to apply to the land court for confirmation because this would lead to ministerial conditions based on the land use committee zoning of the block, and they were within their rights to do so.²⁶² The decision ‘highlighted the fact that the work of the Land Use Committee had no legal standing’; its land categorisations were not legally enforceable.²⁶³ An official in the Department of Maori Affairs at Rotorua wrote to the secretary for Maori affairs that more milling of Te Urewera blocks with a small number of owners was likely to follow.²⁶⁴

Corbett was also under pressure from interest groups such as the Forest and Bird Protection Society and recreational groups who wanted to be sure milling threats over the whole area were removed.²⁶⁵ Forest and Bird had convened a meeting in Rotorua in February 1957 to help coordinate the efforts of organisations opposed to milling of Te Urewera forests. Government representatives and high ranking officials attended, as well as delegates from various recreational clubs; Tuhoe representatives had been invited, but did not attend. The society was given the job of arranging a deputation to meet Government Ministers. The deputation met Corbett on 17 July and asked for a binding classification of all Te Urewera forest lands likely to be milled. It urged the Government to acquire all Maori lands classified b or c, if possible by exchanging them for farm lands, and it wanted the Government to add the remaining Crown land to the Te Urewera park. Corbett was quoted as saying that ‘until such time as the Crown vested its own lands in the area in a National Park, very little could be done to persuade the Maori people to make any such move themselves.’²⁶⁶ We do not know whether the date of the meeting was arranged after the land court decision on Pamatanga, or whether it was a coincidence; but in any case, it is clear that the pressure on the Minister was mounting.

On 1 August 1957, Corbett made an important proposal to Cabinet. His recommendations addressed two issues together: the adding of the Crown land to the

261. Forest Ranger Buckingham to Conservator of Forests, Rotorua, 11 July 1957 (Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), pp 135–136)

262. Rotorua Maori Land Court minute book 105, pp 380–382

263. Bassett and Kay, ‘Ruatahuna’ (doc A20), p 198

264. Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), p 136

265. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 27–28, Campbell, ‘Te Urewera National Park’ (doc A60), pp 83–84

266. Whakatane County Council, minutes, 22 July 1957 (Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), pp 142–143)

park, and the settlement of the Tuhoe roading grievance by payment of compensation. We have referred to this memorandum in chapter 14 in the context of the Crown's roading settlement. Tuhoe had been seeking the return of the land they had contributed for arterial roads (at the time of the consolidation scheme) for a number of years, without success. We reiterate here that the Minister explicitly stated that the purpose of putting the remaining Crown land into the park, which was necessary for soil conservation purposes, and of making compensation for the unbuilt roads, was to assist further purchases of Maori land: 'No success with further essential Crown purchases of Urewera Maori land is likely to result unless the Crown first 'locks up' the 330,000 acres and settles the roading question.'²⁶⁷

Cabinet approved the Minister's recommendation to add the Crown land to the park at its meeting on 5 August, and referred the question of 'compensating the Maoris for land contributed for roading' to a committee convened by Corbett.²⁶⁸

In chapter 14, we were critical of the Crown's actions to settle the roading grievance at this point, tied to its decision about expanding the park, on several grounds:

- ▶ it delayed the roading settlement until 1957 when it finally suited it to act, because it now wished to acquire more Maori land in Te Urewera;
- ▶ it told the owners that it could not return the land they had contributed for roads, as they wanted, because the land had been deducted from many blocks and could not be located – without considering any options for its return;
- ▶ it is clear that the Crown did not wish to return land, because in fact its aim was to acquire more Maori land for the national park; and
- ▶ the Crown land put into the park included the 39,355 acres which Maori had contributed for roads.

The remaining Crown holdings in Te Urewera would be added to the park, then; and the park, it was hoped, would be further expanded by the addition of land that the peoples of Te Urewera still retained. The Director-General of Lands explained the decision to the commissioner of Crown lands in these terms:

This important step evidences the Government's desire to close up the Crown holdings in the Urewera to prevent the timber being milled thus ensuring their retention as a Bird Sanctuary and a conservation and recreational area. It will too, as you will appreciate, assist greatly in the Crown's negotiations with the Maoris to purchase certain of their Urewera timber owned lands.²⁶⁹

Once the Government had made the decision, the matter was considered by the National Parks Authority at its meeting on 10 September 1957. The authority

267. EB Corbett, Minister of Lands, memorandum for all members of Cabinet, ca 1 August 1957 (Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), p 143)

268. Secretary of the Cabinet to Minister of Lands, 6 August 1957 (Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), p 143)

269. Director-General of Lands to commissioner of Crown lands, Hamilton, 27 August 1957 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 153)

received the Government's 'recommendation', and accordingly decided to recommend that the Minister issue an Order in Council declaring the area of approximately 330,000 acres of Crown land to be included in the park.²⁷⁰ Evidently the authority was now convinced it had sufficient information to do so, assisted by the work of the committees set up to negotiate with Tuhoe and classify lands to meet their development needs.²⁷¹ But in any case, the Government had left it little choice. Notes written on the minutes of the decision clarify that the land involved was all of Urewera a block which was not already included in the park; and that all Maori lands were to be excluded, but 'the beds of all Rivers Streams etc' were to be included.²⁷² It was well understood that this decision was expected to place more pressure on Maori to sell their lands now partly enclosed within the new park area. The *Napier Daily Telegraph*, welcoming the decision, added that: 'Much more land (under Maori ownership) is still required to complete the project planned' – though securing it would be a complex undertaking, given multiple ownership and the issues of timber valuation and 'competing offers' for compensation of commercial development. Maori rights in the area, however, were 'virtually unqualified, and the Government has affirmed that there can be no question of taking the land from the tribes without their consent or at less than market value.'²⁷³

As we will see, this would be a continuing theme in official correspondence from this point. When Dr Allan North raised a number of issues with Greig relating to the park in December 1957, including the need to appoint a park board promptly, Greig's reply went straight to the importance of delaying a decision so crucial to the park's administration until more Maori land was purchased:

I feel that the proposal to create a Board is premature until further progress has been made in the negotiations with the Maori owners for the acquisition of further Maori held land for incorporation in the park. Some of the Maori land is strategically placed and its addition to the park could make a marked difference in the administration of the park.²⁷⁴

How far were Te Urewera leaders consulted about the decision to expand the park so dramatically? We are not aware that they were consulted at all. They may well have learned of it from newspaper reports in August, as apparently the commissioner of Crown lands, Hamilton, who administered the park, did.²⁷⁵ What we

270. National Parks Authority, minutes of meeting on 10 September 1957, 'Additions to Urewera National Park' (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p154)

271. Campbell, 'Te Urewera National Park' (doc A60), p86

272. National Parks Authority, minutes of meeting on 10 September 1957, 'Additions to Urewera National Park' (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p154)

273. *Napier Daily Telegraph*, 10 August 1957 (Campbell, 'Te Urewera National Park' (doc A60), pp 85–86)

274. Chairman, National Parks Authority, to Dr Allan North, 23 January 1958 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p559)

275. Director-General of Lands to commissioner of Crown lands, Hamilton, 27 August 1957 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p153)

can say is that Tuhoe were informed of the impending park expansion by Corbett, at the meeting they had with him and the new Minister of Lands, RG Gerard, on 1 October 1957 (Corbett had recently resigned due to ill health). This meeting was held to discuss compensation for the roads the Crown had promised in the course of the Urewera Consolidation Scheme, but which it had never built (see chapter 14). Corbett explained the expansion of the park in the context of trying to ease suspicions about the possible Crown exploitation of its own timber lands and again seemed to indicate that he still considered the park ‘Tuhoe country’, and that its dedication as a park would be a lasting tribute to them:

One point I want to make abundantly clear – that the whole of the Urewera purchase has been declared Rahui, a National Park. It is completely tied up; it is tapu, and I think that I should make that clear to you because there has been, for years while it was Crown land and not tapu, a feeling that some day somebody would come along and exploit it. It is not possible today, or in the future, because by Act of Parliament the whole of the land has become a reserve that cannot be touched, and I believe that it will be the greatest memorial to any tribe in New Zealand. It is Tuhoe country and the greatest memorial any tribe can have is a reserve dedicated for all times.²⁷⁶

We note especially the terms in which Corbett spoke about the Crown’s decision to pay monetary compensation to Tuhoe for the unbuilt roads – rather than returning land, as Tuhoe had petitioned for, and as Under-Secretary Ropiha had reported to the Maori Affairs Select Committee should be done. Corbett tied the decision not just to the difficulty of clarifying which land should be returned, but to the fact that the land was now to be part of the park, to protect its forests:

When I looked at it [the Crown’s block] on the maps and read all the reports I saw that it was absolutely impossible in view of the way interests lie, and also in view of the fact that the Crown has ruled that the land is to be kept forest clad, to hand back 39,000 acres [the amount Tuhoe had given to the Crown to pay for the roads] out of 300,000 because no interest had been defined as to where the area lay.²⁷⁷

We conclude from what Corbett said that the extension of the park had not previously been discussed with Tuhoe leaders.

In response, Tuhoe again welcomed the prospect that areas of forest would be permanently protected. Takarua Tamarau told Corbett:

you don’t know how glad I am that you have decided along those lines to preserve the Urewera as forest for the Dominion, and I think you have taken a step in the right

276. ‘Notes of a Deputation which Waited on the Hon RG Gerard, Minister of Lands’, typescript, 1 October 1957 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), pp 157–158). Corbett had retired from his ministerial portfolios by then due to ill health, but attended the meeting hosted by new Lands Minister Gerard because of his by then long-standing association with Tuhoe.

277. *Ibid.*, p 156

direction with the decision you have given us today, and we Tuhoe people will see that we play our part and adhere to your wishes.²⁷⁸

However, there was still no evidence of any discussion with Tuhoe of the implications of such a large park for their use of the forests or for their nearby communities. Nor is it clear what Tuhoe may have understood by Corbett's use of the terms 'rahui' or 'tapu' or even 'reserve' when it was closely linked to the term 'Tuhoe country'. It is possible, for example, that he gave the distinct impression that the tribe's relationship with the lands comprising the park would be recognised and preserved for the future. Nor did Corbett speak of the Government's intention to keep purchasing, though it was known that Tuhoe were now even more reluctant to part with more lands.

We suggested in chapter 14 that Tuhoe welcomed the resolution of the issue of the unbuilt roads, after many years' delay. Their leaders were clearly anxious, on such an auspicious occasion – at which the departing Minister had spoken at length of his long-held wish to right what he called 'the one injustice . . . that was crying out to be righted' – not to introduce any jarring note.²⁷⁹ Even so, Sonny White, after making due acknowledgements, referred briefly to the park in these terms:

You know, and we all know, the attitude of the Crown as regards high lands in the Urewera, and with your high officers here we are endeavouring to make that a National Park.

My own personal view is that it should be made a National Park but not at the sacrifice of the owners. I have all along expressed the wish, the hope, that it could be done fairly and squarely.²⁸⁰

Was the park extended fairly and squarely? Certainly, given the Government's determination to see that extension finalised, it had become inevitable. No consideration was given to making it a forest park (as with Tararua). Tuhoe leaders were not offered any opportunity at the 1 October meeting of discussing a proposal for extension; rather they were informed of the decision that had been taken, and announced (even if not yet gazetted). They were told the land had been 'tied up', when in fact (as we noted earlier) there was no legal reason why the land they had contributed for roads could not still have been returned. The extension of the park was finally gazetted in November 1957.²⁸¹ This added some 334,300 acres of Crown land to the park, substantially increasing it to a total of around 455,352 acres. The new configuration of the park meant that it now enclosed or abutted some 88,000

278. 'Notes of a Deputation which Waited on the Hon RG Gerard, Minister of Lands', typescript, 1 October 1957, p 5 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 159)

279. Ibid, p 2 (p 156)

280. Ibid, p 5 (p 159)

281. Walzl, 'Waikaremoana' (doc A73), p 378

acres of Maori land. And, as we have seen, it also enclosed Lake Waikaremoana, the jewel that officials and park administrators had long considered the centre-piece of the region.²⁸²

16.5.9 The park's creation – conclusions

By 1957, a large national park had now been established on much of what had previously been the Urewera District Native Reserve agreed with Tuhoe and Ngati Whare leaders in 1896, and enshrined in its own statute. The park as first created in 1954, on the recommendation of the new National Parks Authority, was considerably smaller than the Government had wanted. In 1957, the park was greatly extended when the Crown decided to add to it 330,000 acres – that is, most of its Urewera A block acquired in the course of the consolidation scheme, except for state forest land. This expansion of the park would have lasting impacts on the peoples of Te Urewera, particularly Tuhoe.

The Crown told us that since the land was Crown land, there was no statutory obligation to consult with Maori about its incorporation in a national park, but that consultation had occurred. It cited a scheduled February 1953 visit by Corbett to Te Urewera, at which proposals to form the park were to be discussed. It seems, however, that this visit did not take place.²⁸³ We were further referred to discussions about the 1957 addition to the park between a Tuhoe deputation and the Minister of Lands on 1 October 1957. Such consultation was 'appropriate', the Crown said, given that Maori were 'adjacent land owners.'²⁸⁴ And it was particularly the case because the Maori-owned land which did not form part of the park was likely to be affected by such decisions. That statement on its own would tend to imply that Maori were consulted for no other reason than that they were adjacent land owners.

In fact, the Crown went on to qualify its position. Its 1953 discussions with Tuhoe, counsel said, took place 'in the context of a key period of consultation and negotiation between Te Urewera Maori and the Crown on a range of issues'. These included the Tuhoe wish to develop certain areas, discussions on the failure to build promised arterial roads, and negotiations about Lake Waikaremoana.²⁸⁵ The Crown thus recognised that the peoples of Te Urewera were by no means just adjacent land owners – it was in fact engaged in a range of discussions with iwi of Te Urewera which reflected their past relationships, their particular property rights, and previous Crown undertakings, including its response to Tuhoe pleas that they not be pushed off their remaining land, and that what they most wanted was an economic future there.

282. B Briffault, Department of Lands and Survey, 'note for file', 26 August 1980 (Parker, 'List of Documents' (doc M27(b)), p 507)

283. SKL Campbell, summary of evidence for 'Te Urewera National Park, 1952–75', 20 September 2004 (doc H9), p 10

284. Crown counsel, closing submissions (doc N20), topic 33, p 4

285. Ibid

Though official meetings with Tuhoe did not begin until December 1953, after the Government had made up its mind to have a park in Te Urewera, it is true that the Crown did listen then and – however briefly – did attempt to meet Tuhoe wishes. But the arrangements entered into in 1954–55 through Corbett's land use committee (charged with classifying lands to identify which could be milled, and which could not), led to a short-lived reprieve for Tuhoe owners (especially those at Ruatahuna). They did not lead to the kind of wider solutions that the people had hoped for, especially securing farm land through exchange with the Crown. And many owners beyond Ruatahuna had stood aloof from the start. After a brief period of engagement with Tuhoe, the Government returned by mid-1955 to its preferred solution of purchase of Maori land for the park in order to prevent Maori owners from milling their forests.

But Tuhoe owners did not wish to sell land (as they had explained to the Minister at length in December 1953), and some began to mill their timber. Officials came to the view that the Government must put its own vast landholding (the Urewera A block) into the park if Maori owners were to be persuaded to sell. By mid-1957, things came to a head. A decision of the Maori Land Court in the Pamatanga case found that if all Maori owners of a block zoned to remain as forest by the Land Use Committee agreed to mill their land, they were within their legal rights to do so. There was no requirement to seek confirmation by the land court and expose themselves to ministerial conditions. Very soon afterwards, the Forest and Bird Protection Society (which had been active in coordinating opposition to milling in Te Urewera for some time) urged the Minister to buy Maori land other than that classified for farming, to provide land to exchange with owners if it could, and to add its own land to the park.

The Minister of Lands sought Cabinet approval on 5 August 1957 for a two-pronged approach to finalising the expansion of the national park: the remaining Crown land should be put in the park, and the Tuhoe grievance about arterial roads (for which they had contributed a substantial quantity of land, but which had not been built), should be settled. (This was a long-standing grievance, which the Government addressed only in 1957, when it suited it to do so.) Settling these two issues, the Minister argued, would clear the way to the purchase of Maori land required for the park. The Government approved the park recommendation. The National Parks Authority, after the event, recommended the addition of the Crown land to the park. Tuhoe were not consulted; they were informed of both Government decisions at a meeting with the Minister of Lands (and with Corbett, who had by then resigned because of ill health) on 1 October 1957, well after the decisions had been made. They were told the decision about the park was irrevocable – though the new park boundaries would not in fact be gazetted until November.

There was no meaningful discussion with Te Urewera leaders about either the creation of the park (in 1954) or its extension (in 1957). The Government was already committed to a large park by 1953, and in that sense the die was cast before it held its first discussions with Tuhoe. In 1955 and in 1957, when the Government made decisions about reviving its attempt to buy Maori land, there was little

evidence of concern for the predicament of Tuhoe. There was no discussion with them of alternatives to a massively increased national park – such as a smaller increase, or a forest park – or even how to accommodate their traditional uses of park resources, let alone provide for an economic base.

The circumstances in which the decision for expansion was made would over time compound the problems of the peoples of Te Urewera – both because the park came so close to their own lands, and because the Crown now expected that Maori owners would be encouraged to offer more land for sale. In addition, the new park was to be administered according to an Act that had clear national purposes and objectives that made no formal recognition of Maori concerns, with provision for a local park board that was not formally required to consider Te Urewera Maori settlements or interests in the area. This both reflected and reinforced the existing official mindset that they and their communities were an ‘anomaly’ in the new park. The acquisition of more land would remove the anomaly, facilitate access to park lands for visitors, and make administration of the park easier. All of this was a powerful recipe for future tensions.

In the following sections, we turn to examine in more detail how the existence of this large national park and its administration impacted on Te Urewera communities – in particular on their economic development opportunities, and on their maintaining customary uses and their kaitiaki responsibilities for the lands, forests, and waters of Te Urewera, and tribal wahi tapu and taonga.

16.6 HOW HAS THE NATIONAL PARK AFFECTED THE ECONOMIC OPPORTUNITIES OF MAORI COMMUNITIES IN TE UREWERA?

SUMMARY ANSWER: The establishment of Te Urewera National Park in 1954 (as expanded in 1957) has had four main effects on the economic opportunities available to the Maori communities enclosed by or adjacent to the park.

First, as a matter of Crown policy, the park administrators have attempted to prevent any uses of neighbouring land that might conflict with or threaten the conservation values of the park. These include the milling of indigenous timber, deer farming, and the planting of pine trees for exotic forestry. Buffer zones are thus created around the park by negotiation with landowners and by cooperation (some called it ‘collusion’) with local authorities. Also, outright purchase of buffer zones for the park has been a favoured tactic, although this was not very successful in Te Urewera.

Secondly, the official view by the late 1950s was that Maori would have to sell their land to the Crown and move away from the park altogether; their presence was a ‘problem’ to be solved by their removal. Broadly speaking, this remained the Crown’s goal until the end of the 1970s. Nonetheless, as the Crown pointed out in our inquiry, it only succeeded in buying Manuoha and Paharakeke (38,000 acres). Since most of the Crown’s purchase ambitions went unfulfilled, the Crown’s view is that its policies had little real impact. We do not agree. Tipi Ropiha, Under-Secretary for Maori Affairs, advised his Minister in 1950 that the Crown had to balance the need for protection forests in Te Urewera with the need for Maori to

retain and derive an income from their last remnants of ancestral land. Corbett agreed, and permitted applications for controlled milling alongside the new national park. Had such a balanced approach continued in the 1960s and 1970s, the Crown would have fostered Maori economic initiatives on their lands where practicable, instead of doing its best to preserve their small forests intact while it sought ultimately to acquire them for the park.

Maori did not disagree that protection forest should be preserved where truly necessary, but their view was that so much of their rohe was already tied up as national park lands that surely they must be allowed to mill and develop the remainder without risking significant erosion and flooding. By the 1970s, Tuhoe leaders were increasingly desperate as the timber industry based at Ruatahuna, Minginui, and Murupara looked likely to decline. This would remove the main source of employment in the inquiry district and leave local Maori communities with no economic prospects to fall back on if their land remained locked up from effective use. Also, it was not clear how much of that land was farmable even if cleared; Crown (formerly Maori) land elsewhere in their rohe began to seem the only viable solution.

Thirdly, public opinion pressed for Maori-owned forests to be preserved and added to the park, and opposed the controlled milling instituted by Corbett back in 1953. This resulted in most of the initiatives to acquire Maori land in the 1960s and 1970s. The park was more a beneficiary than a cause of these initiatives, although the two were inextricably linked. The park's establishment embodied and gave a specific shape to the Crown's forest preservation policies. Had the park not existed, for example, it is fairly certain that the millable parts of Manuoha and Paharakeke would have ended up in state forest after the Crown purchased these blocks in 1961, once the erosion-risk areas had been protected.

In the 1970s and early 1980s, Tuhoe leaders were so desperate for an economic base that they negotiated with the Crown to lease their lands to the park on a semi-permanent basis, or to exchange these lands for other lands in their rohe that could be used for farming or forestry. Ultimately the negotiations failed for several reasons: it was extremely difficult to match values and opportunities as between the land to be given up and the land to be obtained; Tuhoe were not convinced that they should relinquish their last pieces of ancestral land at all, even in exchange for land elsewhere in their rohe; and the Government no longer needed to acquire the land officially because the cessation of native logging meant that these lands were no longer 'at risk'. The park had so much influence over what its neighbours could do that, as the commissioner of Crown lands put it in 1984, 'when all is said and done' these lands were already 'virtual national park'.

The exception was Lake Waikaremoana, the jewel in the park's crown, and the 14 Ngati Ruapani reserves on its northern shores. There was a sustained and long-term campaign to acquire the lakebed and the reserves so as to secure the park authorities' control of the lake and its environs. This had nothing to do with risks of erosion or flooding. Having this land as only 'virtual' park was not enough to ensure public access and a 'pristine' lakefront. This was because the use of the

lake for hydroelectricity had lowered the level to the point where the whole of the lake was bounded by a ring of newly exposed Maori land. Although they did not attempt to do so, the Maori owners could have prevented access to and use of the lake. Ultimately, the Maori owners' bargaining position was strong enough to prevent an outright sale and to insist on a lease and annual rental. Thus, the park enabled the lake's owners to finally obtain an economic return on their 'asset' from 1971 (backdated to 1967). The Crown has now been paying rent for the lake's bed and margins for 45 years. But we agree with the claimants that the rent should have been backdated (at least) to 1954, to pay for the Crown's use of the lake in the national park from that date.

From 1954 to 1972, the Crown prevented the Ngati Ruapani owners of the lake-side reserves from making any economic use of their land, or even from living on it. There was a sustained campaign to purchase these reserves (a total of 607 acres), which were all that remained to Ngati Ruapani in the Waikaremoana block after the Urewera Consolidation Scheme. Under that scheme, the Crown had also acquired two of the four southern block reserves and had – in violation of promises – failed to secure Ngati Ruapani sufficient land to either the south or the north of the lake. Ruapani had tried in vain to get a modest increase in their northern reserves, and now they were prevented from using or living even on the small reserves they had secured. So important were these last vestiges of their ancestral lands that the owners successfully resisted the Crown's pressure to sell. Ultimately, they were made into historic and scenic reservations in 1972 under section 439 of the Maori Affairs Act 1953; this confirmed their status as 'virtual park'. As far as we are aware, the owners still derive no economic benefit from these lands.

Fourthly, the park offered local people some economic opportunities that might otherwise not have existed, including tourism enterprises (on their own forested land and possibly also in the park), commercial pest control, and permanent or casual paid employment in the park.

We agree with Professor Murton that the Crown's failure to build the promised roads (see chapter 14) has had a crucial influence on the numbers of tourists and the kind of tourism possible in the park. Nonetheless, safari or adventure tourism ought to be more of an opportunity than it is; lack of infrastructure and finance has kept even low-impact tourism ventures to a minimum, not helped by an overly restrictive stance on the part of the park authorities. As a result, commercial hunting and trapping for pest control is the main way in which local Maori derive some economic benefit from the park. This has been significantly affected in recent years by DOC's use of poison-based control even in accessible areas, where hunting and trapping would (in the view of the Conservation Authority) be as effective as poisons. The need to consider Maori interests in pest control policies has been made clear to park authorities but the outcomes were not clear to us.

Finally, the park itself offers opportunities for permanent and casual employment. Local Maori have mainly been casual employees, especially through welfare-funded schemes in the early 1980s. We lack evidence to assess the extent of the employment opportunities in the park, and whether local Maori have been able

to take sufficient advantage of them. The evidence from DOC is that the make-up of its workforce does not currently ‘fully reflect the local population.’ In our view, taking into account the legacies of past Treaty breaches and the ways in which the park has constrained the economic opportunities available to local communities, there is justification for preferring local people where there are equivalent knowledge and skills, or – where there are not – making training available. In the past, a blind spot existed in terms of valuing Maori knowledge and skills; the 1986 Stokes, Milroy, and Melbourne report called for serious attention to the possibility of employing ‘local rangers’ or ‘native liaison officers’ as in the United States national parks. Despite cautious interest within Lands and Survey, this option was not adopted. Today, DOC accepts that development opportunities must be devised so as to increase the representation of local Maori in its workforce.

Overall, the economic opportunities created by the park have not balanced the constraints its existence, and sometimes its philosophy and management, have placed on the Maori land inside or adjacent to its borders. More could be done to foster Maori tourism ventures, to protect Maori interests in pest-control policies, and to value local knowledge and expertise in employment.

16.6.1 Introduction

The sheer scale of Te Urewera National Park, and its configuration – abutting or enclosing much of the land Maori communities have retained in Te Urewera – means that ‘Maori self-determination and economic development is, to a considerable extent . . . a function of conservation authorities’ flexibility in managing the park and its commercial concessions.’²⁸⁶ For much of the post-war era, Tuhoe leaders were deeply concerned with trying to find some way to make their surviving ancestral lands a source of income – at first to support their communities and later to provide a viable tribal homeland for those who still lived in the area or chose to return.

The issue we address here is how Te Urewera National Park has affected the economic development of the Maori communities of Te Urewera, as they have sought to survive on their remaining lands. We consider whether and to what extent the park has restricted retention, development, and use of neighbouring Maori land. And we examine also whether it has provided the peoples of Te Urewera with an alternative means of livelihood, through commercial concessions or employment. In short, we ask: What sort of neighbour has the park been to the Maori communities of Te Urewera? In what ways has the park helped or hindered the peoples of Te Urewera in their efforts to survive on their turangawaewae? Has it created the ‘human erosion’ problem that the peoples of Te Urewera feared?

These are vital issues for the peoples of Te Urewera. When the park was formed in the 1950s, many communities were already in a precarious economic situation in terms of their lands. In the wake of the consolidation scheme, they had retained

286. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p528

about 25 per cent of their lands in the former Reserve, in the form of 180 small and increasingly uneconomic blocks (see chapter 14).²⁸⁷ The owners of these blocks faced all the manifold difficulties of trying to develop multiply owned Maori land, including the near impossibility of gaining development finance, and inherent problems with land administration. They were further handicapped by beginning from a particularly low economic base. They had only relatively small areas of land cleared for cropping, pasture, or dairying. The great bulk of their remaining land was densely forested, and most of this forest was remote and inaccessible hill country. As we shall see in chapter 18, Crown assistance with the development of Maori farming had begun in the 1930s, but there were only four farm schemes in the inquiry district and their scale was too limited – on their own – to secure Maori economic success on their remaining Te Urewera lands.

One key question facing Tuhoe was: would their remaining land be able to contribute in any meaningful way to their economic and cultural survival in Te Urewera? For that question, the constraints imposed by the existence of a national park, alongside the perception that Maori land was needed to prevent erosion and flooding just as much as land actually owned by the Crown, was very important.

It is important to establish from the outset that since the park's creation, the majority of communities in and around it have suffered from endemic and long-term relative deprivation. That is, a pattern of low income levels, high unemployment, and poor quality housing and health has persisted since the 1950s in most of these communities relative to the rest of New Zealand, including most Maori.²⁸⁸

To continue living in Te Urewera and to improve their circumstances, the peoples of Te Urewera could certainly ill afford to lose any more land, and would, rather, need assistance with extensive land development. It was axiomatic that any such development would be predicated on milling timber, both as a source of finance and to clear a larger base of farmable land (or, alternatively, for new crops of exotic forests). The peoples of Te Urewera would also need the park itself to provide them with economic opportunities, through tourism and employment.

We note, however, that land – and forestry on Maori-owned land – was not the only economic opportunity for the Maori communities of Te Urewera at the time the park was established. The majority of Maori communities beside or inside the park missed out on the major economic development that occurred in inland Eastern Bay of Plenty, including the south-west area of our inquiry district, from the 1940s onwards. Major Government and private investment in the forestry industry, centred on the Kaingaroa forest, led to the Forest Service establishing Minginui village in the late 1940s, and the blossoming of Murupara as a centre for logging operations during the 1950s and 1960s. These 'timber towns' on the south-western fringe of Te Urewera National Park offered stable employment and relatively good income, quality housing, good quality services, and other benefits

287. In addition to these 180 blocks, there were 27 small reserves totalling 95 acres.

288. See Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 36, 1069–1222, 1673–1721, 1943–2075.

to hundreds of Maori from Te Urewera.²⁸⁹ Yet, major economic investment did not occur in the rest of Te Urewera (dominated as it was by a national park), and few benefits spread to other communities outside the timber towns. As the timber towns grew, Tuhoe communities near to the park such as Ruatoki, Waimana, Ruatahuna, and Waiohau either stagnated or experienced rapid depopulation during the 1950s, 1960s, and 1970s. Many Tuhoe moved to these towns and beyond largely in search of employment.²⁹⁰

The above Tuhoe communities were often the ones who were most dependent on the park's resources for supplementing food supply and income. While they had retained some land suitable for farming, the land could not support a large population as it was either fragmented into small uneconomic parcels, or, as we have noted, held in largely unsuccessful farm development schemes. The outward migration was compounded by the closure of private industries in Ruatoki and Ruatahuna during the 1960s and 1970s, which had provided important sources of employment.²⁹¹

By about the mid-1970s, the forestry industry in Te Urewera began to decline, and by the late 1970s there was much discussion about the future of that industry.²⁹² In the mid- to late 1980s, the cessation of native logging and corporatisation of the industry, together with associated restructuring of Government departments, contributed to a stark socio-economic crisis in Te Urewera. The timber industry in the south-west of our inquiry district rapidly contracted and then virtually disappeared. Many Maori lost jobs, including those made redundant by the restructuring of the electricity industry in Waikaremoana. The towns of Murupara and Minginui rapidly declined, and have remained in dire poverty since.²⁹³ Despite decades worth of efforts to solve the land problem – too little land, too little usable land, and too little land that they were actually allowed to make use of – Tuhoe leaders could not offer a viable land-based solution for their people to fall back upon. Today, the highly vulnerable communities of Te Urewera are among some of the most deprived in New Zealand. Yet it is these communities which must provide the tribal base if Tuhoe people are to survive as Tuhoe.

289. See, for instance, Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 481–564; Heather Bassett and Richard Kay, 'Ngati Manawa and the Crown, c 1927–2003: An Overview Report' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc C13), pp 57–117

290. For a broad overview of this migration, see Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 1045–1222.

291. Steven Oliver, 'Ruatoki Block Report' (commissioned research report, Wellington: Waitangi Tribunal, 2004) (doc A6), p 199; Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 409

292. See, for example, Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 631–701; Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 1147–1161.

293. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 701–780; Bassett and Kay, 'Ngati Manawa and the Crown' (doc C13), pp 173–224; Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 558–567; Kararaina Rangihau, 'Waikaremoana Housing Project: Community Profile October 2003,' p 7 (Kararaina Rangihau, brief of evidence, 18 October 2004 (doc H43), app); G G Natusch, *Power from Waikaremoana: A History of Waikaremoana Hydro-Electric Power Development* (Tuai: Electrocorp, 1992), p 74

We shall discuss the timber industry and related socio-economic matters later in the report. Its relevance here is that, to an extent, it cushioned the impact of the under-development of Maori land (whether for forestry or farming) until the 1970s. That is an important context to keep in mind throughout this section of the chapter.

In this section, we consider how and to what extent Crown policies in respect of the park have affected the economic opportunities available to the Maori communities living inside or adjacent to it. We have structured our analysis around the following two key questions:

- ▶ How did the Crown try to influence the use and development of Maori land adjacent to Te Urewera National Park?
- ▶ What economic opportunities has the park afforded the peoples of Te Urewera?

16.6.2 How did the Crown try to influence the use and development of Maori land adjacent to Te Urewera National Park?

16.6.2.1 Introduction: The acquisitive park?

The configuration of Te Urewera National Park in 1957 meant that it enclosed or abutted some 133,298 acres of Maori land.²⁹⁴ It also encircled Lake Waikaremoana, which Crown officials always considered the centre-piece of the region. The Crown well knew that the presence of Maori communities living in and around a national park in Te Urewera would pose it ‘problems of administration.’²⁹⁵ As we have seen, the Crown only expanded the park to surround so much Maori land because it believed that it would ultimately acquire the land.

The presence of the park intensified the conflict between the Crown’s wish to protect native forest throughout the region, and the need of the peoples of Te Urewera to gain a livelihood from their remaining land. Ministers and senior officials were well aware of their conflicting obligations, including the obligation actively to protect the people of Te Urewera in the possession of their ancestral lands. In April 1950, Tipi Ropiha, the head of the Maori Affairs Department, described the problem very clearly to his Minister, Ernest Corbett, who was also responsible for the other relevant portfolios (Lands and Forests):

In most cases, the land and timber represents the sole wealth of these people and if these are to be ‘frozen’ as it were, it seems clear that they are being indefinitely

294. This figure comprised the Tuhoe lands later amalgamated into Te Pae o Tuhoe (21,225 acres), Te Manawa o Tuhoe (22,549 acres), Tuhoe Kaaku (4,722 acres), and Tuhoe Tuawhenua (39,741 acres); the Maungapohatu blocks (6,529 acres); the Waikaremoana reserves (607 acres); Manuoha (19,672 acres); and Paharakeke (18,253 acres). Officials commonly counted only the Tuhoe amalgamated lands in such calculations, for example: B Briffault, Maori Division, file note to Department of Lands and Survey, 26 August 1980 (Parker, ‘List of Documents’ (doc M27(b)), p 507).

295. National Parks Authority, minutes of inaugural meeting, 15 April 1953 (Campbell, supporting papers to ‘Te Urewera National Park 1952–75’ (doc A60(a)), p 83); Under-Secretary for Lands to Minister of Lands, 24 February 1936 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(a)), p 45)

deprived of the ordinary rights of private ownership. The people of the Urewera in particular, are growing fast in numbers and are looking about them for means of providing avenues of employment for their younger people and for the means of providing reasonable housing conditions and a higher standard of living.

If, for the benefit of the community generally, these people are not to be permitted to sell their timber privately, it seems only reasonable that the community generally should recompense them for their loss – in other words the Crown should buy the land and timber. This is not, however, the whole story. The sale of these lands would leave the present owners virtually landless: a state of affairs which the body of Maori land legislation is designed to prevent and which it has always been considered a special duty of this Department to avert.

Certainly a large proportion of the land in the Urewera is unlikely ever to be of much use from a farming or pasture point of view, but a certain amount is considered to be reasonably workable.

The problem is one of conflicting interests and objects and no clear-cut solution presents itself. It is possible, however, that some compromise could be reached as between the interests of the Maori owners and residents and the soil conservation and scenic requirements. I consider that the treatment of the forest in the district should be studied and planned as a whole with a view to reconciling these two aspects.²⁹⁶

In this section, we examine the Crown's part in attempts to negotiate solutions to the dilemma that Ropiha set out so clearly. In particular we examine how and why the Crown remained so long wedded to its preferred policy solution: acquiring the remaining Maori land in Te Urewera in order to add it to the park. Crown officials and the park's management (first the commissioner of Crown lands for South Auckland, and then the Urewera National Park Board) often tried to acquire Maori land to add to the park, and did not desist until the end of the 1970s. Yet, as the Crown has pointed out, their efforts were largely unsuccessful (although with two important exceptions). We also examine the various other ways in which Crown officials and the park's management attempted to restrict the use and development of adjacent Maori land. We place particular emphasis on Crown efforts to incorporate Lake Waikaremoana and the Maori reserves surrounding the lake into the park after the event (they were included as 'virtual park' from 1954).

16.6.2.2 Continuing Crown attempts to acquire 'Maori enclaves' and borderlands

Following the park's expansion in 1957, Crown officials and the park's management made no secret of their intention to acquire more Maori land in Te Urewera to add to the park. Indeed, until the mid-1970s, at least, officials almost universally thought it was only logical, obvious, and inevitable that most of the remaining

296. T T Ropiha, Under-Secretary for Maori Affairs, to Ernest Corbett, Minister of Maori Affairs, 28 April 1950 (Brian Murton, comp, supporting papers to 'The Crown and the Peoples of Te Urewera, 1860–2000: The Economic and Social Experience of a People', various dates (doc H12(a)(H)), p 135)

Maori land in Te Urewera should become part of the park.²⁹⁷ Tipi Ropiha retired as Under-Secretary for Maori Affairs in 1957. After his departure, there is little evidence that Maori Affairs promoted his view that the Crown must balance the needs of soil conservation and scenery preservation against the need to assist Maori to retain their last pieces of ancestral land. Throughout this period, no arm of Government considered it feasible that the peoples of Te Urewera could remain on lands surrounded by a national park. In Crown officials' minds, the question was when, not if, they would relinquish their lands to the park.²⁹⁸ As we shall see, the two things which above all others stymied the 'acquisitive park' was a lack of funds with which to follow through on this pervasive goal, and steadfast Maori resistance to it.

In many respects, there was simply a continuation of Crown policy since the mid-1930s. That is, the Crown saw acquiring Maori land as the best solution to the moral dilemma posed by insisting on forest preservation in Te Urewera (apart from in the Whirinaki Valley). Since forest preservation was perceived as fundamentally incompatible with the presence of the peoples of Te Urewera, they would have to be helped to live elsewhere.

We will discuss the full ramifications of the Crown's milling restrictions for the peoples of Te Urewera in chapter 18. Our specific interest here is in analysing the extent to which the two policies (forest protection and Crown acquisition of Maori land) overlapped. How was the Crown's wish to protect forest on Maori land affected by the presence of the park?

Before we address this question, we need to examine briefly the respective roles played by the Crown and the statutory bodies involved in the park's management in trying to acquire Maori land to add to the park, or to otherwise restrict Maori communities in the use and development of their land. We remind the reader that our jurisdiction is limited to evaluating the Treaty consistency of legislation and of the policy, conduct, and omissions of the Crown. Crown efforts to acquire Maori land, in particular, often involved negotiations between the peoples of Te Urewera and the highest levels of Government, namely Ministers of the Crown and senior officials. But the National Parks Authority was involved in an advisory role, and the park's management also played a part on the ground, and much of the evidence before us focused on their activities in trying to control Maori land use and development. The commissioner of Crown lands for South Auckland, an important Crown official, managed and administered the park in its formative years. But,

297. Under-Secretary for Maori and Island Affairs to secretary, Urewera National Park Board, 15 December 1969 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(b)), p 24; Director, Forest Management, to Deputy Director-General of Forests, 15 October 1970 (SKL Campbell, comp, supporting papers to 'Urewera Overview, Project Four: Te Urewera National Park, 1952-75', 2 vols, various dates (doc A60(b)), vol 2, pp 207-208); Turley, commissioner of Crown lands, to Director-General of Lands, 15 March 1971 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(H)), p 139; Director-General of Lands to Minister of Lands, 18 September 1972 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 231)

298. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 24

THE SECOND 'EMBRACE' of the Crown is Te Mowai Whenua. In this period of about 1930 to 1980, it is the Crown actively spinning a web of policies designed to protect the Urewera for the purposes of others, and to relocate the people of the Urewera elsewhere. The people of Ruatahuna wanted development to underpin an economy for the benefit of their families and future generations. Instead at first they were given menial jobs for unemployment relief. Then they were asked by the Crown to make sacrifices – not to cut their timber, and not to develop their land. They made these sacrifices believing that they would receive fair compensation for what they had forsaken, but the Crown was more interested in just acquiring virtually all the lands that Tuhoē had left in the Urewera so it could protect that too forever. By the end of Te Mowai Whenua, the people were leaving Ruatahuna, for work and for the services and the assistance denied those who remained. The second embrace of the Crown left Te Manawa o Te Ika at its lowest ebb. Ruatahuna had been all but abandoned.

Tuawhenua Research Team¹

1. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two: A History of the Mana of Ruatahuna from the Urewera District Native Reserve Act 1896 to the 1980s' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc D2), p iii

between 1962 and 1981, the Urewera National Park Board carried out those functions. It is our view that neither the National Parks Authority nor the park board are 'the Crown' for the purposes of our jurisdiction (see the sidebar opposite). This means that our examination here is focused on relevant legislation and on the policies, acts, and omissions of Government officers – notably Ministers and senior public servants – who are, without doubt, 'the Crown'.

The purposes and principles of the National Parks Act 1952 emphasised the importance of park landscapes and their native flora and fauna being preserved in perpetuity (see section 16.3). Consistent with that emphasis, the functions of the National Parks Authority included recommending to the Minister how to protect and improve existing parks. Thus, it was empowered:

- ▶ to advocate and adopt schemes for the protection of national parks,
- ▶ to recommend to the Minister the enlargement of existing parks,
- ▶ to recommend how to allocate moneys appropriated by Parliament for the maintenance and improvement of national parks, and
- ▶ to recommend the acquisition by the Crown of any private land for the purposes of improving a national park.²⁹⁹

299. National Parks Act 1952, ss 6(a)-(c), 13

An Issue of Jurisdiction

The jurisdiction of the Waitangi Tribunal is to examine for their consistency with Treaty principles any New Zealand laws made on or after 6 February 1840 and any policies, practices, acts, or omissions of 'the Crown' that have been made or have occurred on or after that same date.¹ Counsel for the Wai 36 Tuhoe claimants asserted that the park board was 'the Crown'.² If that is correct, it would render the park board's decisions and practices subject to our assessment of their Treaty consistency.

We do not agree that the park board is properly regarded as a part of the Crown. The primary legal test for determining whether a particular entity is the Crown is the control test, which focuses on the nature and degree of control that the Crown or Government has over the entity.³ Our account in the Key Facts section of this chapter reveals that the park board was a statutory body whose membership, while chaired by the local commissioner of Crown lands, included a majority of non-Government employees. Its functions and powers, defined in the National Parks Act 1952, required it to give effect to that Act as well as to general policies announced by the National Parks Authority. There were some prescriptive requirements in the law and in those policies, binding the park board to particular courses of action, but in many situations the park board had considerable discretion to decide what, exactly, should happen in Te Urewera National Park. Sometimes the approval of the National Parks Authority was needed before a park board's decision took effect. But, in our view, the park board was not subject to the direction or control of any Minister or any other Crown officer or body such as would be necessary for it to be regarded as a part of, or acting as an agent of, the Crown.

Counsel for the Wai 36 Tuhoe claimants did not assert that the National Parks Authority was part of the Crown but we have considered that matter too. In particular, we note the words of section 7 of the National Parks Act 1952 that, in carrying out its role, the authority was to 'have regard to' any representations the Minister of Lands made to it in writing to give effect to any Government decision. Could those words have given the Crown such a degree of control over the Authority as to make it part of the Crown? Our answer is no. We note, in support, that when the National Parks Act 1952 was repealed and replaced in 1980, the Minister sought (unsuccessfully) to have the words changed so that the authority would be required 'to give effect to' Government policy.⁴ In other words, the Minister himself considered that

1. Treaty of Waitangi Act 1975, s 6

2. Counsel for Wai 36 Tuhoe, closing submissions (doc N8), p 3

3. For a discussion of the law governing the issue, see Waitangi Tribunal, *Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims* (Wellington: Legislation Direct, 2008), pp 870–886.

4. Cecilia Edwards, 'Selected Issues: Te Urewera National Park; Thematic Issue 33' (commissioned research report, Wellington: Crown Law Office, 2005) (doc L12), p 26)

the requirement that the authority 'have regard to' his representations did not bind the authority to comply with those representations.

It is our view that, on a strict legal analysis, the requirement that the National Parks Authority 'have regard to' ministerial representations left it free from Government control, so that it was not part of the Crown but was an independent statutory body. While the fact that a majority of its members were very senior Crown officers could give rise to questions about the extent to which the authority was truly independent of Crown influence, we note that those officers were from departments with very different purposes, which would lessen any risk that they would adopt and press for a single Government 'line'. Also, the influence of the non-public servant members, representing the three interest groups and the park boards, cannot be overlooked.

The result is that our examination in this chapter does not consider the Treaty consistency or otherwise of the policies and practices, acts, and omissions of the park board or the National Parks Authority (or their successors). Instead it is focused on the consistency with Treaty principle of, first, the legislation that governs New Zealand's national parks and, secondly, various relevant policies, practices, acts, and omissions of Crown officers – most notably, Ministers of the Crown and departmental officers when they are clearly acting as such in their dealings with Te Urewera National Park.

The 1978 *General Policy* was the first to refer to land adjacent to national parks. It provided:

Where possible, the use of areas adjacent to national parks will be influenced so that there is no detrimental effect on ecosystems within a park and park values are not destroyed or dominated. It may be desirable for land adjacent to a park to be placed under some other type of reservation and managed and controlled by the park board. Where adjacent land is considered an essential addition but cannot yet be purchased, it may be designated for proposed national park, to give some measure of protection.

Co-operation and good working relationships will be sought with planning authorities and other public agencies, organisations, and individuals to seek their co-operation in maintaining the quality of the environment surrounding a national park.³⁰⁰

300. National Parks Authority, *General Policy for National Parks* (Wellington: Department of Lands and Survey, 1978), p 3.6 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1265). The 1964 *General Policy* did state that the authority's policy on recommending the acquisition of land for a new park was to consider five factors, one of which was the availability of funds for the purpose: see National Parks Authority, *General Policy for National Parks* (Wellington: Department of Lands and Survey, 1964), p 4 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1251).

Crown historian Cecilia Edwards has summarised that policy as identifying three appropriate methods for influencing the use of adjacent land so as to protect a national park: acquiring the land; ‘seeking the cooperation of the land owner to manage these adjacent lands in a compatible manner’; and ‘seeking the cooperation of local authorities.’³⁰¹ The bottom line, as National Parks Authority policy stated, was that ‘no undesirable development is undertaken on land adjoining National Parks.’³⁰²

That policy was clearly ‘owned’ by the Department and Minister of Lands and Survey. In 1977, the year before the *General Policy* was published, the department had issued a manual to its staff on the subject of identifying and assessing potential areas for new parks and additions to existing parks. It stated there that while the management and control of the National Parks Authority and park boards might be confined to parks, ‘preservation and protection must begin further afield. Both bodies must necessarily interest themselves in the areas immediately adjacent to the park.’³⁰³ As well, when it came to purchasing land to add to a park, the roles of the department and Minister were critical, because they held the Government’s purse strings. That purse was not large, however. In the ordinary course of events, the department had a limited annual budget of perhaps only a few thousand pounds (and later typically a few tens of thousands of dollars) with which to buy land for all New Zealand’s national parks.³⁰⁴

Those matters provide essential context for the efforts made by the various entities – the park board, the National Parks Authority, officers of the Department of Lands and Survey, and the Minister – that were involved in the attempts made to purchase Maori land for addition to Te Urewera National Park. As we will see, the park board often initiated negotiations with individual land owners, but it had no role in actually buying land.³⁰⁵ The park board’s key role was rather to identify for the National Parks Authority which areas of Maori land the Crown should buy.³⁰⁶ The authority might then in turn recommend that the Minister of Lands acquire the land. No land could be added to a national park without this recommendation.³⁰⁷

301. Edwards, ‘Te Urewera National Park’ (doc L12), p 87

302. Chairman, National Parks Authority, to all national park board chairmen, ‘Use of land adjoining National Parks’, 22 August 1977 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 78)

303. Department of Lands and Survey: Assessment and Identification of Potential Areas for National Parks, July 1977 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 96)

304. The annual budget allocations are tabulated in Edwards, ‘Te Urewera National Park’ (doc L12), pp 115–116.

305. See, for example, B Briffault, file note, ‘Tuhoē Maori Lands – Combined Committee’, Department of Lands and Survey, 26 August 1980 (Murton, supporting papers to ‘The Crown and the Peoples of Te Urewera’ (doc H12(a)(H)), p 136); Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 31

306. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 25–62; Campbell, ‘Te Urewera National Park’ (doc A60), pp 89–90, 94; Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), p 438

307. Campbell, ‘Te Urewera National Park’ (doc A60), p 43

The evident enthusiasm of local Crown officials and some park board members for buying large areas of Maori land must therefore be seen in that context. The park board had no power to buy land; the Department of Lands and Survey did have that power but had a very limited budget for buying land for national parks. In the ordinary course of events then, Crown officials simply could not fulfil the policy of acquiring the remaining Maori land in and around Te Urewera National Park. Instead, this policy was only successful whenever the political will arose to find sufficient funds for the negotiation of specific purchases. As we have seen, Corbett had succeeded in having Cabinet set aside £300,000 to buy Maori land in Te Urewera, but his plans lapsed. The political will to buy Maori land in Te Urewera to add to the park remained, however, and was given fresh impetus after public concern arose in the late 1950s that milling on Maori land might cause flooding and erosion. The Crown responded by imposing new milling restrictions and by negotiating the last major purchase of Maori land in Te Urewera.³⁰⁸

In sum, we are satisfied that whenever the Te Urewera park board, or the National Parks Authority, or their successors attempted to influence the use and development of adjacent Maori land by trying to have the Crown acquire that land, or to restrict its use and development by seeking the cooperation of land-owners or local authorities, they were working to the clear direction of legislation and Crown policy.

16.6.2.2.1 OVERLAPPING POLICIES – MILLING RESTRICTIONS AND ATTEMPTS TO EXPAND THE PARK

As the park proposal took final shape between 1953 and 1957, milling on Maori land also gathered momentum. The first grants to sawmillers of cutting rights to forest on Maori land under Corbett's compromise solution were confirmed in 1955. Four years later, Minister of Forests Eruera Tirikatene pointed out to the peoples of Te Urewera assembled at Ruatoki that they had sold cutting rights to the forest on some 69,000 acres. This included nearly all of the easily accessible timber on Maori land in Te Urewera.³⁰⁹ As we saw in the preceding section, this was only possible because of Corbett's acceptance that New Zealand Governments could not – in all conscience – keep preventing the milling of land decade after decade, if Maori were not willing to sell it. Thus, the creation of the park did not have the effect of preventing this burst of milling activity in Te Urewera (which, consents having been given, continued into the 1960s and 1970s). Rather, it may well have facilitated it once Corbett's work to create a national park revealed the nature and extent of Tuhoe's problem to him in 1953. In any case, the establishment of the park in 1954 coincided with the creation of the Urewera Land Use committee, the classification of Maori-owned land for controlled milling, and an unprecedented

308. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 205–206

309. Eruera T Tirikatene, *Urewera: Facts and Figures of the Urewera Maori Lands in Relation to the Four Catchment Areas, National Parks and State Forests, Delivered by Honourable ET Tirikatene* (Wellington: New Zealand Forest Service, 1959) (Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), app c, pp 95, 107–118)

Crown liberality in agreeing to milling. Corbett had the contradictory hope that much of this land would nonetheless still be sold or exchanged for the park, especially after he secured its massive expansion in 1957.

In 1958, following the park's expansion, Maori landowners suddenly found themselves owning large areas of forest adjacent to or even inside the park, most notably some 38,000 acres on the Manuoha and Paharakeke blocks in the Wairoa River catchment, some 22,800 acres on the Whakatane River blocks above Ruatoki, 4,722 acres on the Waimana River blocks, and some 6,529 acres at Maungapohatu.³¹⁰ Furthermore, the park almost completely encircled almost 40,000 acres around Ruatahuna, including around 24,275 acres of forest on steeper slopes which the land use committee had deemed unsuitable for milling.³¹¹ How was the Crown's wish to protect this forest affected by the presence of the park?

As we saw earlier, when Corbett persuaded Cabinet to place all the Crown land in Te Urewera into the national park in August 1957, he hoped this was the way to overcome Maori owners' reluctance to sell their lands.³¹² Initially, Corbett's plan seemed sound: after Crown officials again reassured Tuhoe assembled at Ruatoki in November 1957 that the entire Crown award was to become national park, Sonny White suggested that this would 'quieten the doubts of the people about the Crown's intentions' so that purchase offers 'would be listened to in a better spirit'.³¹³

However, the Crown still made no headway in purchasing Tuhoe land around Ruatahuna for the park. As we have seen, Tuhoe had cooperated with Corbett's compromise on the understanding they would be offered land exchanges. They were much less willing to sell land.³¹⁴ As the Tuawhenua researchers explained, this was Te Manawa o te Ika, Te Kohanga o Tuhoe: 'They didn't want to sell it in 1919 and they didn't want to sell it in 1955'.³¹⁵ Negotiations soon lapsed, seemingly once both parties realised that the Crown's funds were quite insufficient to match the prices that sawmillers could offer for timber.³¹⁶

310. Conservator of Forests, Rotorua, to Director-General of Forests, 14 February 1972 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 215); Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), app C, p 118

311. The original amount of C-class land on the Ruatahuna blocks from which only marked trees could be taken was 26,732 acres. Despite various difficulties, there is convincing evidence that the system was largely adhered to, since in 1972 the amount of millable timber remaining in the Ruatahuna district was estimated at 108 million board feet, only 10 per cent less than the estimate for the amount on 'c' class land 15 years earlier: see Conservator of Forests to Director-General, New Zealand Forest Service, 14 February 1972 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 215); Minister of Lands to Cabinet, 24 June 1955 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 126).

312. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p 143

313. 'Report of Meeting at Ruatoki on 6 November 1957 to discuss settlement of the Urewera Rooding Petition' (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 164)

314. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 349–350

315. *Ibid*, p 349

316. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p 143; Campbell, 'Te Urewera National Park' (doc A60), p 72; Director-General of Forests to Conservator of Forests, 6 November 1957 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 142)

In the years that followed, officials continued consistently to advocate adding the Maori land and forests of Te Urewera to the park. Key lobby groups such as Forest and Bird vigorously promoted this policy, and it was supported also by the Whakatane County Council.³¹⁷ The political will to enact the policy remained intact at the highest levels for some time too. Prime Minister Walter Nash, for instance, in 1959 reiterated to Tuhoe the Crown's willingness to purchase for the park all B- and C-class lands.³¹⁸ (B-class land was suitable for milling but not for farming afterwards, and C-class land was not considered safe or suitable for milling.)

16.6.2.2.2 MILLING AT MAUNGAPOHATU

During the late 1950s, the issue of milling on Maori land in Te Urewera erupted into the public consciousness. The public was concerned in particular by news in 1958, a year in which the Rangitaiki Plains had experienced severe floods,³¹⁹ of a proposal by the Bayten Timber Company to cut a road right through the national park in Te Urewera and mill some 2,000 acres of forest on Maori land at Maungapohatu. The attempt to develop Maori land deep within the park is important because the public reaction to it prompted the Crown to place a new blanket form of restriction on milling in Te Urewera, and to purchase the Manuoha and Paharakeke blocks to add to the national park. But even though the Maungapohatu land was milled, its owners did not succeed in salvaging an economic future for their land and their community.

In agreeing to milling, the Tuhoe people of Maungapohatu were attempting to seize a priceless opportunity to at long last return to redevelop their lands, once home to the community founded by the charismatic leader Rua Kenana in the early twentieth century. Rua and his followers had cleared some 2,000 acres and ran around 5,000 sheep and cattle at Maungapohatu.³²⁰ As we discuss in a subsequent chapter, after the disruptions of his arrest and imprisonment, Rua persuaded his people to rebuild their community at the mountain in 1927. Like other Tuhoe, he anticipated that the Crown would fulfil its commitment to build an arterial road between Waimana and Maungapohatu. As we saw in chapter 14, the peoples of Te Urewera parted with approximately 40,000 acres to the Crown in payment for this and one other arterial road, neither of which the Crown ever completed.³²¹ While the Maungapohatu community survived 'more or less intact' until 1931, the Crown's failure to honour its commitments was a crucial factor in the inexorable

317. Neumann, "'... That No Timber Whatsoever Be Removed' (doc A10), pp 140–144

318. *Ibid*, pp 177, 230

319. *Ibid*, pp 151, 154–157

320. Jonathan Easthope, 'A History of the Maungapohatu and Tauranga Blocks as defined by the First Urewera Commission' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A23), pp 150, 231–232

321. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 192, 219; Judith Binney, Gillian Chapman, and Craig Wallace, *Mihaia: The Prophet Rua Kenana and His Community at Maungapohatu* (Auckland: Auckland University Press and Bridget Williams Books, 1996) (doc A112), p 156

decline of the community.³²² However, a few families stubbornly remained on the land until the 1980s at least; indeed, the last permanent resident passed away just a few months before we arrived in February 2005.³²³ The Maungapohatu lands also remained a site of regular pilgrimage, for their owners, for Tuhoe generally, and for followers of Rua's teachings. But Maungapohatu was now marooned deep in the national park.³²⁴

The owners of the Maungapohatu lands tried very hard to ensure they capitalised on the chance to return home that the milling agreement offered them. They knew that, as Judge Prichard of the Maori Land Court impressed upon them, this was 'a harvest which falls due not in every lifetime but in every thousand years.'³²⁵

The key to the agreement that the owners forged was the timber companies' promise to do what the Crown had failed to do in the 1920s: build roads from Ruatahuna to Maungapohatu, where they would erect a mill, and then from Maungapohatu to the Waimana Road.³²⁶

The milling proposal faced many hurdles. The Maori Land Court understandably took a cautious approach, and delayed matters till 1962 until convinced that the owners would receive fair prices for their timber, and could form an incorporation which would have reasonable prospects of successful land development.³²⁷

Meanwhile, officials' inspections determined that the timber company could cut the promised roads without causing excessive erosion, after which the National Parks Authority agreed to their construction, and in 1958 the Crown granted the company a 21-year easement to use the road.³²⁸

Crown officials expected that the Whakatane County Council would eventually take over responsibility for the road.³²⁹ In a cruel irony, the council refused to do so until the provisions of the Urewera Lands Act 1921–22 were repealed and the lands became rateable; yet these lands had been exempted from rates largely because there were no roads to access them.³³⁰ Claims about rating will be addressed in a later chapter. Here, we note that central government officials and the council agreed that for the moment the road should remain private.³³¹ Since long-term use

322. Binney, Chapman, and Wallace, *Mihaia* (doc A112), p116; Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp192–194

323. There were three families resident in the early 1960s. See Campbell, 'Te Urewera National Park' (doc A60), pp139–140. The 1971 census records 13 people resident at Maungapohatu, and the 1981 census records four people.

324. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp221, 227

325. Prichard decision, Rotorua Maori Land Court, 10 January 1958 (Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p155)

326. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), pp33–34; Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp154–156

327. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp155–156, 197–198

328. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p32; Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), p251

329. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), p231

330. Bassett and Kay, 'Ruatahuna' (doc A20), pp320–321

331. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p32; Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp231–233

Only the Lonely Mountain for Company

The owners of the Maungapohatu lands resolved in 1962 to set aside royalties from the sale of timber to form a capital fund to support land development. Quoting the minutes of their meeting, it was recorded that they:

spoke of the days a generation ago when the whole Maungapohatu Valley was thickly populated in a number of villages . . . and how due to the fact that the promised roading was never put through nearly all except a few families had drifted away to other places and soon there would 'only be the lonely mountain with the kereru . . . for company'. Others . . . spoke of the fertility and potential of the valley where the grass sown in the time of Rua was still doing well and so were cattle and sheep that were running there. Some of the owners . . . said that over the years the Maori land in the Urewera had been almost entirely alienated and the only way to hold this valley was to farm it. Now is the time, the tide is full, money is coming in and the road is partly constructed.¹

1. 'Minutes of a Meeting of Assembled Owners, Maungapohatu Block, at Rewarewa Pa, Ruatoki, on 27 January 1962', 31 January 1962 (Klaus Neumann "'... That No Timber Whatsoever be Removed": The Crown and the Reservation of Maori-Owned Indigenous Forests in the Urewera, 1889–2000' (commissioned research report, Wellington: Waitangi Tribunal, 2001) (doc A10), p197)

was still expected, the company paid a levy to the commissioner of Crown lands (then the park's administrator), to fund ongoing road maintenance once logging ceased.³³²

The milling proposal also needed consent from the Minister of Forests, now the Member for Southern Maori, Eruera Tirikatene. But Tirikatene disliked the land use classification system used at Ruatahuna which his officials recommended, as it involved time-consuming land inspections and line cutting, and required him moreover 'to impose on the Maori owners restrictions that could not be imposed on other private land owners.'³³³ Finally, as Tirikatene shrewdly realised, the Government's reluctance to provide compensation in a form acceptable to the owners meant they either had to sell their lands, or were forced 'to act, as it were, as a non-paid banker for the State.'³³⁴

332. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p35

333. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp158–159

334. Tirikatene to Director of Forestry, 1 October 1958 (Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp158–159)

Tirikatene eventually agreed to give consent to the Maungapohatu application in April 1959, on condition that ‘safeguarding legislation in respect to soil erosion and water conservation be brought down’ later that year, which could then be applied to all landowners and not just Maori.³³⁵ Meanwhile the Minister developed a new form of consent that allowed him to impose restrictions as and when it was found that milling was likely to have adverse effects.³³⁶ This was the form of consent first issued for milling on five Maungapohatu blocks in June 1959.³³⁷

Under that consent, milling on the Maungapohatu blocks occurred between 1962 and 1976 without causing any particular erosion problems.³³⁸ The Bayten Timber Company built the promised logging road from Ruatahuna, and to celebrate its opening in 1964 more than 1,500 people travelled along it to Maungapohatu.³³⁹ But the company failed to fulfil its other key promises to the people: the road had proven so expensive that the owners had to agree to forego the further obligation to connect Maungapohatu to the Waimana Road, and the company also failed to build a mill at Maungapohatu.³⁴⁰ Instead, in 1965 the company transferred its cutting rights to the C & A Odlin Timber and Hardware Company Limited.³⁴¹

The logging road allowed the Maungapohatu Incorporation to farm the land originally cleared by Rua’s community. However, as Aubrey Temara emphasised to us: ‘The farm has had a very unhappy existence. It has suffered immensely due to a range of reasons for substantial parts of its uneconomical lifetime. Given its location, the size and capital structure of the farm, it was always going to struggle.’³⁴²

The incorporation’s efforts were not helped by the attitude of the park board. It opposed, for example, attempts to diversify into deer farming in the 1970s because of the possibility deer would re-enter the park. These attempts ultimately foundered anyway in the face of the incorporation’s ongoing financial difficulties, which forced it to lease the farm to a local Tuhoe farmer.³⁴³ However, according to Aubrey Temara, it was the park board’s subsequent failure to maintain the road to Maungapohatu, after logging wound up and the road easement expired in 1979, that sounded the ‘death knell of the farm.’³⁴⁴ He commented: ‘There is only one

335. Tirikatene, ‘Consent to the sale of Maori owned timber – Maungapohatu Blocks’, [circa 1 April 1959] (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 159)

336. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 156, 160–161; Campbell, ‘Te Urewera National Park’ (doc A60), p 76

337. Tirikatene, ‘Urewera: Facts and Figures of the Urewera Maori Lands’, p 13 (Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), app C, p 104)

338. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 198

339. See <http://www.nzhistory.net.nz/page/opening-first-road-maungapohatu>, accessed 9 July 2012.

340. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 198; Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), p 38

341. Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), pp 238, 251

342. Aubrey Temara, brief of evidence, 16 February 2005 (doc K15), p 5

343. Temara, brief of evidence (doc K15), p 6; Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 74

344. Temara, brief of evidence (doc K15), p 7

thing worse than no access into land screaming for development and that is developed land whose access has been cut off.³⁴⁵

The park board refused to maintain the road from Ruatahuna, despite acknowledging that it had inherited accumulated royalties of almost \$20,000 imposed for the sole purpose of maintaining the road once logging ceased, and despite Tuhoë making it very clear they still desired fully formed legal road access.³⁴⁶ Instead, as Tama Nikora put it, the park board ‘appropriated’ the royalties.³⁴⁷ The board argued that neither it nor the Crown bore any legal obligations to maintain the road – or even to use the money for its intended purpose, which it argued had been misconceived, since ‘little real thought’ had been given to what would happen on the land once the logging rights expired.³⁴⁸ But the board thereby showed its ignorance of the entire basis upon which the Maori owners had agreed to milling in the first place: that the road would allow them to use and develop their land. The consequence of the road falling into a terrible state of disrepair was, Aubrey Temara suggests, that ‘stock management deteriorated when fences fell into disrepair, pastures regressed, fertilization was non-existent (fertilizer trucks couldn’t or refused to go to Maungapohatu) and stock could not be moved to and from the sale yards.’³⁴⁹

Many years later, Minister of Conservation Sandra Lee responded to requests from Aubrey Temara to have the road upgraded, and ensured that DOC repaired the road.³⁵⁰ This caused what Richard Boast calls ‘a storm of public outrage nationally’ over public money being spent on a ‘road to nowhere.’³⁵¹ Yet, the Crown’s obligation to provide Maungapohatu with functioning road access ‘has always been clear.’³⁵² The Crown’s failure to do so between the 1970s and 2001 was the final straw for the farm’s survival. As Neumann concluded, ‘[t]he rejuvenation of the Maungapohatu settlement – the goal for which the owners sacrificed their forest – has so far not happened.’³⁵³

Meanwhile, however, the Maungapohatu proposal proved a lightning rod for a growing storm of public disquiet over milling on Maori land in Te Urewera. It gave much of the impetus to a petition to Parliament organised by Violet Rucroft (later Briffault), President of the Whakatane branch of Forest and Bird, which called for much tighter restrictions on logging in Te Urewera. The Rucroft petition gathered 19,804 signatures in just 10 weeks in 1959, mainly from the Bay of Plenty.³⁵⁴ This

345. Temara, brief of evidence (doc K15), p 7

346. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 115

347. Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), p 38; Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 117

348. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 114–115

349. Temara, brief of evidence (doc K15), p 6

350. *Ibid.*, p 7

351. Boast, ‘The Crown and Te Urewera in the 20th Century’ (doc A109), pp 220–221

352. Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), pp 252–253

353. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 198

354. *Ibid.*, pp 150–151

petition had a considerable impact on the Government.³⁵⁵ In effect, it pushed the Government into a policy of public appeasement.

Public opinion as reflected in the Rucroft petition increasingly – and wrongly – perceived all Maori land in Te Urewera as lying in the middle of the national park.³⁵⁶ Vociferous pressure groups such as Forest and Bird mobilised this opposition very effectively, to such a degree that it propelled the Government to arrive almost simultaneously at two critical decisions over 1960 and 1961: to buy the Manuoha and Paharakeke blocks to add to the national park, and to place a new form of blanket restriction on timber milling consents in Te Urewera.³⁵⁷ We discuss each of those matters in turn.

16.6.2.2.3 THE PURCHASE OF MANUOHA AND PAHARAKEKE FOR THE PARK

The remote Manuoha and Paharakeke blocks (38,000 acres) are covered in predominantly beech forest interspersed with podocarps such as rimu and miro.³⁵⁸ They were the last substantial areas of Maori land in the Wairoa catchment – and the only substantial areas of Maori land that the Crown succeeded in buying to add to the national park. These blocks had been cut out of Maungapohatu by the second Urewera commission in 1907. Manuoha was awarded to the descendants of the Ngati Kahungunu tupuna Hinganga (for the ancestor Hinganga and Ngati Hinganga, see chapter 2). Paharakeke was awarded to Wi Pere and three hapu, variously identified in our hearings as hapu of Ngati Kahungunu and as hapu of Te Whanau a Kai.³⁵⁹ As with all Urewera commission (later land court) titles, these blocks were in the undivided ownership of lists of individuals until 1937, when each of them was partitioned in two. In July 1955, the blocks' owners held a joint meeting at Wairoa and re-collectivised, forming two separate incorporations in an effort to take advantage of the new commercial opportunities offered by milling their timber.³⁶⁰

The blocks' purchase was subject to detailed claims in our inquiry about the incorporated owners' willingness to sell, whether sale should have been necessary to realise the value of their timber resource, and over the valuation and the price paid. We discuss all of these claims fully in the next section of this chapter. Our specific interest here is in why the Crown bought the land.

In 1959, the owners of the Manuoha block deferred consideration of an offer from the Bayten Timber Company to buy their timber, and instead offered to sell the land and timber to the Crown. It declined the offer, citing lack of funds.³⁶¹ The owners of the Manuoha block then agreed in May 1960 to sell cutting rights to

355. *Ibid*, pp 154, 163–167

356. *Ibid*, pp 140–141, 167

357. *Ibid*, pp 186–187

358. *Ibid*, p 178

359. Counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), pp 94–95, 165; counsel for Te Whanau a Kai, closing submissions (doc N5), p 42

360. Neumann, “... That No Timber Whatsoever Be Removed” (doc A10), pp 172–173

361. *Ibid*, pp 176–177

the Bayten Timber Company.³⁶² The transaction required the consent of Minister of Forests Tirikatene. He repeatedly delayed his decision, since both he and the Minister of Lands, and their senior officials, now considered that the land should instead be purchased to add to the park.³⁶³

Why had the Crown changed its mind? Klaus Neumann has argued that the Crown was now prepared to buy the land because it wanted to appease public fears about erosion.³⁶⁴ The Crown in our hearings acknowledged that public pressure was ‘a factor’, but argued that the ‘driving force’ was genuine official concern over the potential for erosion.³⁶⁵

We consider that the balance of evidence supports Neumann’s views. First, it is important to note that the decision to purchase was effectively made twice, either side of the general election of late 1960. The Minister of Lands in the new National Government was told that the previous Labour administration had decided to purchase the blocks in September 1960 ‘as a result of reports that logging operations in this catchment would cause great public alarm’.³⁶⁶ Furthermore, officials’ advice, such as that of Director-General of Forests Entrican to his Minister, was quite explicit about the determinative significance of public opinion: ‘in view of the serious concern of the Wairoa people I would have no alternative but to recommend that the whole of the two blocks should be purchased for incorporation in the National Park.’³⁶⁷ The new National Government shared this concern, and again decided to purchase.

The decision to purchase both blocks for the park was made even though there was no proposal to log Paharakeke (and some officials thought severe access problems would eventually dissuade Bayten from logging Manuoha too).³⁶⁸ In addition, while officials clearly thought that wholesale land clearance would cause significant erosion, there was little prospect of this occurring. Any milling would be subject to strict controls (and in point of fact existing milling operations on similar and adjoining State forest land continued without incident or uproar throughout the 1960s).³⁶⁹ In their deferred 1959 resolution, the Manuoha owners had already decided themselves that milling should be strictly controlled, and they were thus prepared to abide by any restrictions that were attached to the cutting rights.³⁷⁰ Both the Director-General of Forests and the secretary of the Soil Conservation and Rivers Control Council therefore believed that it was not strictly necessary ‘to close the areas up untouched for soil conservation reasons.’³⁷¹ Opinion was divided

362. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p172

363. *Ibid*, pp180, 184–185

364. *Ibid*, p180

365. Crown counsel, closing submissions (doc N20), topic 31, pp29–30

366. Director-General of Lands to Minister of Lands, 20 February 1961 (Brent Parker, comp, supporting papers to ‘Crown Purchase of the Manuoha and Paharakeke Blocks’, various dates (doc M20(a)), p74)

367. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p180

368. *Ibid*, pp180, 182

369. *Ibid*, pp180–183, 221–222

370. *Ibid*, p176

371. *Ibid*, p183

among the ranks of the Forest Service. Senior head office official AD McKinnon argued that it was not safe to take the risk that any logging might lead to erosion, nor to rely on the possibility that prohibitive costs would prevent such logging without the Government having to lift a finger.³⁷² In finally recommending the purchase to his Minister in May 1961, the Director-General of Lands judged that the 'bulk of opinion' in the Forest Service favoured purchase for the national park rather than selective cutting.³⁷³

Although senior officials thought purchase preferable to milling for several reasons, including an implied commitment from the Crown to owners that it would complete the purchase, their advice continued to emphasise the determinative significance of public opinion. As the Director-General of Lands made clear:

Public opinion is a potent factor in this case. . . . Timber milling in the Urewera led more than 19,000 people to petition parliament in 1959 to preserve the indigenous forests of New Zealand. The Lands Committee recommended that this petition be referred to Government for favourable consideration and Cabinet on 21 March 1960 agreed that the petitioners be told that legislation to preserve forests had been covered by the Soil Conservation and Rivers Control Amendment Act 1959. The petitioners and others are likely to react vigorously to any apparent Government sanction of even controlled cutting in this important catchment.³⁷⁴

Final Cabinet approval for purchase was based on submissions from the Minister of Lands, which effectively glossed over why officials had decided purchase was preferable to controlled milling. After highlighting the dangers of erosion in Te Urewera generally, the Minister simply noted that 'the Forest Service and Soil Conservation Council both advise against milling on these blocks.'³⁷⁵ The desirability of adding the land to the national park appeared as a secondary reason for purchase.³⁷⁶ It was on this basis that Cabinet approved negotiations for purchase on 7 August 1961 for between £140,000 and £160,000. The owners agreed to sell the blocks for the lower of these figures (only one owner dissented), and after the deal was signed off on 25 October 1961, the lands were brought into the park the following year.³⁷⁷

372. AD McKinnon, New Zealand Forest Service, 'Report on Proposed Purchase by Crown for a National Park Manuoha and Paharakeke blocks', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 61)

373. Director-general to Minister of Lands, 15 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 66)

374. Director-General of Lands to secretary to Treasury, 26 June 1961 (Neumann, "' . . . That No Timber Whatsoever Be Removed'" (doc A10), p 183)

375. Gerard, Minister of Lands, to Cabinet, 1 August 1961 (Parker, supporting papers 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 46-47)

376. *Ibid*, p 46

377. Brent Parker, 'Report - In Relation to the Crown Purchase of Manuoha and Paharakeke Blocks' (commissioned research report, Wellington: Crown Law Office, 2005) (doc M20), p 5; Neumann, "' . . . That No Timber Whatsoever Be Removed'" (doc A10), pp 230-231

We will consider whether this was a fair purchase later in the chapter (see section 16.7). Our conclusion at this point is that the most important factor in explaining the Crown's purchase of Manuoha and Paharakeke was the perceived need to appease the public's fear of erosion and floods, and to satisfy their expectation that the Crown would prevent such catastrophes by adding the land to the national park.³⁷⁸ Thus, the park's presence played an important role in shaping how the Crown weighed up whether to allow milling to proceed, while imposing whatever conditions were needed to control erosion, or to buy the land and timber. Public interest in Te Urewera had been raised by the park's creation, and strongly favoured halting logging on Maori land in Te Urewera and, where possible, adding it to the park.

Broadly speaking, we do not consider that the eventual outcome in the case of the Manuoha and Paharakeke blocks reflects badly on the Crown, except on a specific issue of valuation and price (see section 16.7). These blocks were not home to Maori communities. Their owners initially offered the blocks to the Crown freely, and proved quite willing to part with the land. However, it was quite a different story with lands in and around the park that were home to Tuhoe and Ngati Ruapani.

16.6.2.2.4 A BLANKET BAN – THE SECTION 34 PROHIBITION ON ACTIVITIES CAUSING EROSION

At the same time as it negotiated the purchase of Manuoha and Paharakeke to appease public opinion, the Crown also placed a new blanket restriction over Te Urewera in 1961 that prohibited any activity likely to cause erosion. This prohibition was issued on 30 June 1961, and remained in place until 1993. No activity whatsoever 'likely to facilitate soil erosion or floods or cause deposits in watercourses' could now occur in Te Urewera without the consent of the Soil Conservation and Rivers Control Council.³⁷⁹ The council gained this extraordinary authority by means of a notice issued under section 34 of the Soil Conservation and Rivers Control Amendment Act 1959.

The trigger – but not the cause – for the Crown's decision to issue the section 34 notice was its inability to control renewed logging on steep land on the small Heipipi block near Ruatahuna. The land use committee had determined most of the block should not be milled, but because the block had fewer than 10 owners they did not need the Maori Land Court's approval to cut the timber, and so could not be made to abide by any conditions set out by the land use committee.³⁸⁰ But this was an isolated case of logging occurring on an erosion-prone block. The

378. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 176–187

379. Soil Conservation and Rivers Control Amendment Act 1959, s34 (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 147–148)

380. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 166–167; Klaus Neumann, under cross-examination by Crown counsel, Murumurunga Marae, Te Whaiti, 15 September 2004 (transcript 4.10, p 70)

Crown issued the section 34 notice as a response to public fears of erosion. But Crown officials did not believe any significant erosion was going to occur.³⁸¹

The vast area covered by the Crown's blanket restrictions consisted almost exclusively of Maori and Crown land, and bore a remarkable resemblance to the former boundaries of the Urewera District Native Reserve.³⁸² Yet, scarcely 60 years previously the Crown had promised the peoples of Te Urewera they would hold all of that land 'intact, that your forests may continue to exist . . . so that you may live and shall be undisturbed'.³⁸³ The claimants in our inquiry have long resented the Crown's imposition of the section 34 notice, as restricting their property rights, preventing economic development, and impinging on their mana motuhake. Reflecting that concern, counsel for the Wai 36 Tuhoe claimants suggested it had effectively made all Maori land in Te Urewera into national park.³⁸⁴

It is not at all difficult to understand why the peoples of Te Urewera might resent the Crown assuming the power to control whether trees might fall on their land, purely in the interests of protecting farmers in the Bay of Plenty or Wairoa. But the fact is that the most accessible of Maori land in Te Urewera had already been logged or approved for logging. Further, and crucially, the notice did not apply retrospectively: all of the existing consents allowing milling on Maori land were able to continue. Finally, partial consent was still given to some new logging proposals. In effect, therefore, while the section 34 notice could have resulted in a highly restrictive regime, this is not necessarily what occurred in practice.³⁸⁵

We discuss the detail of how the section 34 restrictions were applied, and their effects in practice, later in our report (see chapter 18). Here, we are concerned with the significant implications for owners of Maori land around the national park.³⁸⁶ The first implication was that Maori could no longer log their land themselves, or enter into any arrangements with sawmillers at all, without gaining approval from the Soil Conservation and Rivers Control Council – a body on which (unlike the land use committee) they had no representation, and whose interests were closely aligned with the park administration. In a 1971 report for the Minister of Maori Affairs, the head of the Maori Affairs Department acknowledged that 'many applications' to mill had never even been made 'because the owners and the millers knew full well that permission would not be granted'.³⁸⁷ The second implication

381. Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), pp viii, 165–168; Neumann, under cross-examination by counsel for Wai 36 Tuhoe, Murumurunga Marae, Te Whaiti, 15 September 2004 (transcript 4.10, p 73)

382. Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), pp 168–169

383. 'Urewera Deputation, Notes of Evidence', p 22 (Cathy Marr, comp, supporting papers to 'The Urewera District Native Reserve Act 1896 and Amendments, 1896–1922', 2 vols, various dates (doc A21(b)), vol 2, p 186)

384. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 65

385. Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), pp 189, 206

386. Neumann, under cross-examination by counsel for Nga Rauru o Nga Potiki, Murumurunga Marae, Te Whaiti, 15 September 2004 (transcript 4.10, pp 77–79)

387. Secretary of Maori and island affairs to Minister of Maori Affairs, 3 June 1971 (Parker, 'List of Documents' (doc M27(b)), p 1031)

was potentially positive: landowners now had the legal right to compensation (under section 37 of the Act) if they could show that they had lost income as a result of the milling restrictions.³⁸⁸ But, as the secretary for Maori and island affairs pointed out to his Minister, 'the right was ineffectual' because it required convincing a sawmilling company to apply for consent to mill, waiting to see what restrictions were imposed, and then negotiating compensation for the injurious effects of those restrictions.³⁸⁹ All in all, as Tama Nikora suggests, the use of the section 34 notice was a 'heavy handed means of controlling land use in Te Urewera'.³⁹⁰ We will return to this important issue of compensation in chapter 18.

The evidence of Tama Nikora is that the restrictions imposed by the section 34 notice caused Tuhoe to begin to consider the future of their forest lands at hui from 1962. That year, Tuhoe met the Minister of Maori Affairs, Ralph Hanan, at Ruatoki, and asked to open negotiations with the Crown for redress for historical and ongoing timber restrictions. They were told, in the words of Tahī Tait, that 'as we had not lost our trees there was nothing to compensate'.³⁹¹ By 1964, they had decided to begin by amalgamating their lands enclosed by the park in the Whakatane River valley, and then to attempt to gain collective compensation for the effects of milling restrictions over these lands.³⁹² In June 1969, three members of the Tuhoe Maori Trust Board applied to the Maori Land Court for a trust to be formed for these blocks, totalling 22,813 acres, with themselves as trustees.³⁹³ Early the next year they sought consent from the Soil Conservation and Rivers Control Council for the cutting of all timber on these lands. These moves initiated the entwined processes of land amalgamation and compensation negotiations with the Crown which were to preoccupy Tuhoe for more than 10 years.

16.6.2.2.5 A NEW ROUND OF NEGOTIATIONS – TUHOE TRY TO SALVAGE AN ECONOMIC FUTURE AND THE CROWN TRIES TO EXPAND THE PARK

Tuhoe knew they faced a precarious future. They confronted the real possibility that their people might no longer be able to maintain viable communities on their ancestral lands. Their efforts to extricate themselves from what had become a highly vulnerable position were courageous: they amalgamated their lands to provide a collective basis for some economic land use and development, and to allow collective negotiations with the Crown over timber milling restrictions. These efforts were also dangerous: they opened up the opportunity for the Crown to apply pressure towards fulfilling its hopes of acquiring all the Maori land enclosed by the park.

388. Campbell, 'Te Urewera National Park' (doc A60), p 75

389. Secretary of Maori and island affairs to Minister of Maori Affairs, 17 April 1972 (Parker, 'List of Documents' (doc M27(b)), p 1002)

390. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 21

391. Tuhoe Tuawhenua Trust, minutes, 28 September 1974 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(a)), p 109)

392. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), pp 21–22

393. 'Application for Constitution of a Trust' and letter: Urquhart, Roe, and Partners to Registrar, 13 June 1969 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 441)

In the following discussion, we consider an aspect of the Crown's conduct during the protracted negotiations with Tuhoe. At issue is the part played by the Crown's desire to expand the park, as opposed to the Crown's obligation to compensate Maori for historic timber restrictions, and its attitude towards ensuring that Tuhoe retained the capacity to sustain their collective identity in their turangawaewae.

Tama Nikora succinctly summarised the problems which Tuhoe confronted by the 1960s:

Tuhoe held increasingly uneconomic blocks of land with inadequate titles, no legal access, a burgeoning number of individual, and especially absentee owners, and no governance structures with authority over Tuhoe lands. Tuhoe had no roads, much undeveloped land, and almost no income as milling petered out, farming became less lucrative, and the timber-milling restrictions began to bite. The Crown still coveted Tuhoe land for the National Park and imposed rating on some Urewera blocks, which made them vulnerable to alienation. . . . The overall situation was clearly an urgent one.³⁹⁴

The problem with rating to which Nikora alludes arose after the removal of the general rating exemption for Te Urewera lands in 1963. Significant elements in Tuhoe soon became preoccupied by the concern that failure to pay rates would lead to piecemeal land alienation to the Crown.³⁹⁵ The *New Zealand Herald* reported that some members of the park board viewed this prospect very differently:

The Urewera National Park Board expects to be able to buy large areas of Maori land within the park when the payment of rates on the land is enforced.

Mr BHN Teague said the Minister of Internal Affairs, Sir Leon Gotz, had made it very clear that Maoris would have to pay rates on land inside the park.

‘If they are going to be asked to pay rates they are going to sell their land to avoid paying’ he said.³⁹⁶

The park board subsequently denied any intent to apply pressure in this way.³⁹⁷ By this time, however, it had already made ‘many attempts’ to have the Crown acquire small portions of the Maori land enclosed by the park.³⁹⁸ As Bassett and Kay argued, one of the ‘driving forces’ behind the effort to amalgamate the titles

394. Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), p 9

395. See, in particular, Tuhoe Tuawhenua Trust, minutes, 28 September 1974 (Bassett and Kay, supporting papers to ‘Ruatahuna’ (doc A20(a)), pp 109–115).

396. *New Zealand Herald*, 14 September 1963 (Evelyn Stokes, J Wharehuia Milroy, and Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera* (Hamilton: University of Waikato, 1986) (doc A111), pp 102–104)

397. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 30

398. B Briffault, file note, Department of Lands and Survey, 26 August 1980 (Parker, ‘List of Documents’ (doc M27(b)), p 507); Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 28–31; Campbell, ‘Te Urewera National Park’ (doc A60), pp 94–100

‘FROM the year 1967 we met as a people and in these meetings we considered our plight both socially and in respect of land and resolved to attend to our social and economic advancement. While as a people we were poor the Tuhoe Trust Board was asked to bear the burden.’

Tuhoe-Waikaremoana Maori Trust Board¹

1. Tuhoe-Waikaremoana Maori Trust Board, submission to Royal Commission on Maori Courts, 1980 (Brent Parker, ‘List of Documents – Compensation for Restrictions placed on Milling of Native Timber in the Urewera’, various dates (doc M27(b)), p 548)

of their scattered lands was Crown efforts to acquire land for the park. And this remained a core topic of debate and negotiation between the Crown and the Tuhoe Maori Trust Board, once amalgamation got under way.³⁹⁹ The board was entrusted with ensuring that amalgamation could help resist this pressure or at least take advantage of it to obtain other (farmable) land within their rohe, and provide the capacity for collective decisions about how to forge an economic future for their people.

By this time, members of the Tuhoe Maori Trust Board had begun to wrestle with the conclusion that, since the Crown had rendered their people’s forested lands incapable of economic use, they might have little option but to relinquish them, and use the proceeds to develop land elsewhere. The application to form a trust over the Whakatane River lands stated that the ‘obvious future’ for the blocks was the sale of timber to the Crown, and the land to the national park. The introduction to the court’s minute book elaborated:

since timbers that could be extracted have been taken from the majority of Urewera lands, the Tuhoe people have been exercising in their minds ways and means of utilising the remainder of their lands which for some time they and the Crown have considered for the most part as suitable only for inclusion in the Urewera National Park.⁴⁰⁰

In August 1969, John Rangihau, newly appointed to the park board, explained to his fellow members that ‘the general purpose of the Tuhoe was to amalgamate’, beginning with the Whakatane River blocks and Waikaremoana reserves, then the

399. Bassett and Kay, ‘Ruatahuna’ (doc A20), p 270

400. Whakatane Maori Land Court, minute book 58, introduction (Clementine Fraser, ‘Amalgamation of Urewera Lands 1960–1980s’ (commissioned research report, Wellington: Waitangi Tribunal, 2004) (doc F3), p 17)

Maungapohatu blocks, and finally the Ruatahuna blocks, 'in order to ensure that all the land is held intact for the owners or sold for inclusion in the Park, and not cut up piecemeal'.⁴⁰¹

Next month, at an early planning meeting for the development of the park's 'master plan', Rangihau clarified the tribe's purposes. He emphasised that Tuhoe were increasingly determined to hold on to all of their lands. Further, though they supported the idea of preservation of the remaining forest and were prepared to work with the park board, they wanted an economic benefit as well. As Rangihau put it:

Tuhoe had always regarded the Ruatahuna/Maungapohatu area as the very centre of their history and culture. As a tribe they were the last to resist the march of 'westernisation.' He thought that recently their feelings had begun to harden against selling any more of their land. There was not a very large acreage still held, nor was it of any great value in comparison with the lands still owned by other tribes elsewhere. Nevertheless, they did not want to see it cleared, because they felt their spirit was still linked closely to the forest in this area. They were prepared to work in with the Board so long as the land could still remain in their possession. There was some feeling that while they wanted to retain ownership yet let others use it, there should nevertheless be some financial return for the use made of it, ie, possibly lease of the land to the Government for Park purposes.⁴⁰²

By November 1969, Rangihau made clear to the commissioner of Crown lands and other officials that Tuhoe had 'gone cold on the idea of sale'.⁴⁰³ The Crown, however, had not.

In 1970, an interdepartmental committee appointed to gauge the potential for erosion if the Whakatane River blocks were milled reported that there were 'no technical reasons' why controlled cutting of some 5,000 acres of forest scattered over 29 of the 34 blocks should not occur. It noted, further, that all of the extensive milling around Ruatahuna had to date not caused any significant erosion. In fact the committee suggested that it might reduce erosion over the long term by allowing better pest control.⁴⁰⁴

The committee nevertheless suggested that the Crown decline consent to mill the Whakatane River blocks, and instead try to buy all of the land and timber for the national park. Only if this failed, they said, should the Crown allow

401. Urewera National Park Board, minutes, 13–14 August 1969 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 190)

402. Urewera National Park Master Planning Team Meeting, 29 September 1969 (Campbell, supporting documents to 'Te Urewera National Park' (doc A60(b)), p 185)

403. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 443

404. Revington (engineer, Bay of Plenty Catchment commission), Skudder (principal ranger, New Zealand Forest Service), and Anaru (soil conservator, Ministry of Works), 'Logging in the Ureweras: Whakatane Blocks,' [circa September 1970] (Campbell, 'Te Urewera National Park' (doc A60(b)), pp 209–210)

controlled cutting.⁴⁰⁵ Senior forestry officials, the park board, and the National Parks Authority all concurred. Purchase would be ideal, since the land was a 'logical' addition to the park.⁴⁰⁶

Tuhoe were angered by this decision. They felt it showed the restrictions on milling their land were less about soil conservation and more about 'manoeuvrings to take yet more Tuhoe land for the National Park'.⁴⁰⁷ Certainly, as the chair of the park board explained to the Director-General of Lands, the board's 'accepted policy' was that any Maori land enclaves should be acquired when an opportunity arose. This policy had indeed just been formally set out in the park board's draft management plan, which stated: 'Ideally the lakebed together with all other Maori enclaves in the Park should be purchased by the Crown for inclusion in the Park but . . . the Crown should accept a long term lease with perpetual rights of renewal.'⁴⁰⁸ The park board justified its policy as a means towards 'a more convenient and more easily administered boundary' and better public access.⁴⁰⁹

The peoples of Te Urewera had no input to this plan. Their interests were officially represented only by the Department of Maori Affairs, which considered it 'logical that most or all of this land should eventually be acquired by the Crown for Park purposes.'⁴¹⁰ It is significant, however, that the park staff vehemently disagreed with the board's stance. The rangers' written submission on behalf of all staff argued that acquisition of Maori lands would in fact detract from the appeal of the park to many visitors, who found the 'intimate association of the people and the land' one of its most important qualities. They thought the park board was 'impertinent' to seek to acquire the Tauwharemanuka and Tawhana blocks which were currently being successfully farmed; they pointed to the importance of the grassed Maori lands of the Waimana Valley as a 'Park asset'; and they highlighted the spiritual significance of the Hanamahihi and Te Honoi blocks, site of 'Tuhoe's ancient school of learning'. The staff consensus was that instead of trying to acquire Maori land, the park should 'encourage Tuhoe to retain their lands, and assist them to administer the lands to the mutual advantage of the Park, the public,

405. Campbell, 'Te Urewera National Park' (doc A60), p 109; Report on Logging in the Ureweras: Whakatane Blocks', no date (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 209)

406. Director, forest management, to Deputy Director-General of Forests, 15 October 1970 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), pp 207–208); Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 444–445

407. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 23

408. Department of Lands and Survey, *Urewera National Park Management Plan, 1970* (Hamilton: Department of Lands and Survey, 1970), p 15 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1338)

409. Edwards, 'Te Urewera National Park' (doc L12), p 51; National Parks Authority, *General Policy for National Parks* (1978), p 3.5 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1264)

410. Secretary for Maori and island affairs to secretary, Urewera National Park Board, 15 December 1969 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 42)

and the owners'. The staff concluded that it was to the advantage of all if 'Tuhoë become themselves the vehicle for interpreting the areas to the general public'.⁴¹¹

The staff submission prompted the park board to amend the plan in 1970:

to remove any implication that influence should be brought to bear on the Maori owners of enclaves within the Park to sell or lease the land for Park purposes but at the same time to establish the principle that if the owners should ever wish to dispose of their land the Crown should be given the first opportunity to buy or lease it for Park purposes.⁴¹²

As we have just seen, however, Crown officials and the park board had all concurred that Maori should not be allowed to mill any land in the Whakatane River Valley, and instead had decided to try and purchase their land.

However, officials faced a critical stumbling block in acquiring such a large area of Maori land and timber: the prohibitive cost involved. Forestry officials at this stage thought owners would expect perhaps \$1,500,000 for their timber alone.⁴¹³ The Director-General of Lands agreed that the allocation of funds for national park purposes 'simply does not run to the level involved here'.⁴¹⁴ In March 1971 he therefore sought the help of the Soil Conservation and Rivers Control Council, arguing that the primary reason for restricting milling on the land was the risk of erosion; the desire to gain the land for the national park was 'a secondary reason'.⁴¹⁵ Unsurprisingly, none of the senior officials from Lands, Forests, or Works could find sufficient funds in their budgets or exchangeable land with which to compensate owners. In the end, therefore, there was no other option but to grant consent to controlled milling. No milling took place, however; instead the matter became embroiled in the wider issue of compensation for milling restrictions on Maori land throughout Te Urewera.⁴¹⁶

Tuhoë succeeded in opening up this issue through their meeting with Duncan MacIntyre, the Minister of Lands, Forests, and Maori Affairs, at Ruatahuna in April

411. Chief ranger on behalf of staff, to Department of Lands and Survey, Hamilton, 'Submission to Urewera National Park Board on the policy and management plan', 11 November 1970 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 44–45)

412. Urewera National Park Board, minutes, 2 December 1970 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 336)

413. Director, forest management, to Deputy Director-General of Forests, 15 October 1970 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 207); Campbell, 'Te Urewera National Park' (doc A60), pp 109–111; commissioner of Crown lands, Hamilton, to Director-General of Lands, 15 March 1971 (Tuawhenua Research Team, 'Te Manawa o Te Ika, Part Two' (doc D2), p 445)

414. Director-General of Lands to director of water and soil conservation, Ministry of Works, 23 March 1971 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 446)

415. Ibid

416. See Director-General of Forests to Minister of Forests, 30 September 1971 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), pp 211–212)

THERE is not much Tuhoë land left . . . We believe, Sir, that we would find no peace in heaven if we suffer these remnants to be alienated.

Tuhoë Maori Trust Board¹

1. Tuhoë Maori Trust Board, 'Nga Take a Ngai-Tuhoë: "Te Kotaki a Tuhoë, e Kata te Po"', submission to Minister of Maori Affairs, 23 April 1971, p 7 (Heather Bassett and Richard Kay, comps, supporting papers to 'Ruatahuna: Land Ownership and Administration, c 1895–1990', 3 vols, various dates (doc A20(c)), vol 3, p 298)

1971. Tuhoë chose the time and place for this hui with great care, as marking the centenary of their momentous meeting at Ruatahuna 100 years before when they decided to 'give their allegiance to the Government as a Tribe'.⁴¹⁷ As we explained earlier in our report, Tuhoë continue to date the beginning of their relationship with the Crown to the April 1871 hui at Ruatahuna. But the hui did not signal an unconditional acceptance of Crown authority. As Tamati Kruger explained to us, both Tuhoë and the Crown held mana, not the Crown alone (see chapter 8).

The worst fears expressed by Te Whitu Tekau had already been realised. Now Tuhoë told Minister MacIntyre that their 'greatest concern . . . is the possibility which has arisen that they could be reduced to a non-entity'.⁴¹⁸ To stave off the prospect of annihilation, Tuhoë asked for help with land amalgamation, 'to hold onto what little land we have left'.⁴¹⁹ Forestry was seen as 'the answer to the economic utilisation of some of their lands,' which they feared would otherwise be lost. And they pressed for compensation for the injustice imposed by milling restrictions.⁴²⁰

MacIntyre returned from the meeting demanding to know what truth there was in Tuhoë's representations over the injustice of milling restrictions. The secretary

417. Presentation to the Honourable Duncan MacIntyre, Nga Take a Ngai-Tuhoë, 23 April 1971 (Heather Bassett and Richard Kay, comps, supporting papers to 'Ruatahuna: Land Ownership and Administration, c 1895–2000', 3 vols, various dates (doc A20(c)), vol 3, p 293); Judith Binney, summary of 'Encircled Lands' (doc B1(d)), p 22; Tuawhenua Research Team, 'Ruatahuna: Te Manawa o te Ika, Part One: A History of the Mana of Ruatahuna from Early Origins to Contact and Conflict with the Crown' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc B4(a)), p 252; Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 427

418. 'Honourable Duncan MacIntyre, Nga Take a Ngai-Tuhoë, 23 April 1971 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(c)), p 295)

419. Len Rangi [at hui with MacIntyre], April 1971 (Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 27)

420. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 27; 'Honourable Duncan MacIntyre, Nga Take a Ngai-Tuhoë, 23 April 1971 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(c)), p 302)

for Maori Affairs outlined to his Minister the 'long and complicated' history of the Crown's milling restrictions, which he summarised as:

really another case where the State, for the good of the community generally, wishes to prevent the owners of Maori land from dealing with it (ie by selling their timber) but being less than enthusiastic about making a fair arrangement to compensate those owners.

Tuhoe, he said, had behaved 'extremely well', especially since there was 'room to doubt whether the motives of the Government in imposing these restrictions are confined merely to the soil erosion aspect. There has for example been mention from time to time of scenic reservations.'⁴²¹ MacIntyre then told his officials that 'he was determined to see that steps were taken to do justice' to Tuhoe before he left office.⁴²²

Far from this happening, as we shall explain in more detail in chapter 18, Tuhoe instead became embroiled in complex negotiations over their lands that lasted at least 10 years, had very limited success, and were extremely controversial among the Tuhoe people. We will not rehearse these events in detail here (the issue of compensation for timber restrictions is discussed in chapter 18, and the issue of title amalgamation is the subject of several specific claims, which we address in chapter 19). Nor do we wish to suggest that there were ever any easy answers: the fundamental problems involved in reconciling the needs of the peoples of Te Urewera with wider interests in forest preservation had been evident since the 1930s.

We do, however, point out that Duncan MacIntyre was the first Minister of the Crown since Corbett in the mid-1950s to have the ability to confront the full concerns of the peoples of Te Urewera. MacIntyre, like Corbett, was Minister of Lands, Forests, and Maori Affairs, and so had the capacity to do what Ropiha had recognised was necessary in 1950: to study and plan for the treatment of the forest in Te Urewera 'as a whole with a view to reconciling these two aspects' of forest protection and the retention of ancestral Maori land. MacIntyre established a working party committee of Tuhoe-Waikaremoana Maori Trust Board members and Crown officials from his various departments to negotiate a settlement.

We also think it important to remember just what was at stake in the negotiations that consumed Tuhoe in the 1970s. The Tuhoe leadership was trying to extricate its people from what threatened to become a truly terrible predicament, as the one bright spot – forestry to the south-west at Minginui and Murupara – also seemed increasingly at risk. They were therefore prepared to take desperate measures. In fact, they had been driven to the point of deciding that their

421. Secretary for Maori Affairs to Minister of Maori Affairs, 3 June 1971 (Parker, 'List of Documents' (doc M27(b)), pp 1029–1031)

422. Director-General of Forests to Deputy Director-General of Forests, 22 December 1971 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(b)), p125)

The Attempted Amalgamations of Tuhoe lands

The Maori Land Court amalgamated Tuhoe lands into four blocks on 14 February 1972. The 33 forested blocks on the western bank of the Whakatane River became Te Pae o Tuhoe (22,549 acres). The lands in 43 blocks around Ruatahuna became Tuhoe Tuawhenua (39,741 acres). The lands in 21 blocks in the Waimana River valley became Tuhoe Kaaku (4,722 acres). These three amalgamations were all prompted by the need to negotiate compensation for milling restrictions. The fourth block, Te Manawa o Tuhoe (21,225 acres), amalgamated 58 blocks lying between the Rangitaiki River and the Whakatane River. This amalgamation was prompted by the possibility of using the land for exotic forestry.

Land amalgamation proved to be complex, controversial, and not wholly successful. The Tuhoe-Waikaremoana Maori Trust Board (as it became in 1971) was able to use the four amalgamations as the basis for negotiations with the Crown. But by the late 1970s, negotiations with the Crown over the future of the amalgamated lands had struck a series of stumbling blocks. At this point concern arose among some land owners over the question of who had control over their lands, spiralling into court action over the Tuhoe Tuawhenua lands. Numerous failures of due process in the formation of the amalgamations were uncovered, revealing what Tama Nikora calls a 'comedy of errors'.¹ The Tuhoe Tuawhenua amalgamation was quashed, and the Tuhoe Kaaku amalgamation remained incomplete. The trust board eventually succeeded only in brokering very limited deals with the Crown and a forestry company over lands in Te Manawa o Tuhoe.

For more information about the process and outcomes of title amalgamation in these four blocks, see chapter 19.

1. Tama Nikora, 'Te Urewera Lands and Title Improvement Schemes' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2004) (doc G19), p 64

remaining ancestral lands were so hampered by the Crown's web of preservation policies that they could not provide their people with a future:

the effect of all the current pressures could lead to their total eviction and forced cessation of centuries of continuous occupation. The welfare of communities surrounding Te Urewera National Park is a matter of continuing serious concern to this Board who sees the question as being essentially one of survival, let alone a dire need to improve their circumstances as soon as possible.⁴²³

423. Secretary, Tuhoe-Waikaremoana Maori Trust Board, to National Parks Authority, 6 September 1977 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), pp 409–410)

‘EITHER give us land for value or the other alternative is to wipe us off the face of the earth and take our land. This is a cry from an old person who has lived in the area and who has come through all this period.’

John Rangihau to Minister of Maori Affairs, 9 July 1974¹

1. ‘Minutes of a Meeting with the Tuhoë Maori Trust Board’, 9 July 1974 (Brent Parker, ‘List of Documents – Compensation for Restrictions placed on Milling of Native Timber in the Urewera’, 2 vols, various dates (doc M27(b)), vol 2, p 820

The desperation of the Tuhoë-Waikaremoana Maori Trust Board is most evident in a dramatic proposal they put to the Minister of Maori Affairs Matiu Rata on 18 June 1974. Frustrated by three years of fruitless interdepartmental bickering and negotiation, the trust board proposed an all or nothing ‘packaged deal’ to clear away ‘pettifogging detail’.⁴²⁴ Under this deal, the Crown could lease all of Tuhoë’s remaining lands for 99 years (with no right of renewal), with the exception only of papakainga and urupa. In return the trust board asked for equivalent leases on fully stocked farmland in the Bay of Plenty or Waikato.⁴²⁵ It is highly doubtful that Tuhoë really had such loosely specified distant locations in mind; Judge Gillanders Scott had already emphasised to Minister Rata that ‘the exact words put to me by several of the elders’ were that any exchange ‘would have to be for land which can be “seen and be be-holden by Tuhoë”’; in other words, it would have to be within their rohe.⁴²⁶

At a meeting in Ruatahuna, in September 1974, a relatively small number of Tuhoë land owners agreed that negotiations could proceed between the trust board and Crown officials under this basic framework. But they did so with great reluctance, having deep concerns over the proposed leases’ lengthy term and sweeping extent.⁴²⁷ As Tu Tawera emphasised:

We keep saying that we are doing this for our children’s sake. Yet it appears to me that we are going to have no room for them to have a say or play a part in the long

424. Tuhoë-Waikaremoana Maori Trust Board to the Minister of Maori Affairs, 18 June 1974 (Parker, ‘List of Documents’ (doc M27(b)), p 828)

425. Ibid

426. Judge K Gillanders-Scott to Matiu Rata, Minister of Maori Affairs, 29 March 1974 (Parker, ‘List of Documents’ (doc M27(b)), p 842)

427. Tuawhenua Trust, meeting minutes, Te Umuroa Marae, Ruatahuna, 28 September 1974, MLC 45/198, Maori land Court, Rotorua (Heather Bassett and Richard Kay, comps, supporting papers to ‘Ruatahuna: Land Ownership and Administration, c1895–1990’, 3 vols, various dates (doc A20(a)), vol 1, pp 109–115; Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), pp 450–453

term future of our land. I feel very strongly about tying up our land for such a long time.⁴²⁸

Negotiations now recommenced through the reconvened working party committee. The trust board decided to separate negotiations on the three substantially forested blocks (Te Pae o Tuhoe, Tuhoe Kaaku, and the Tuawhenua lands), from those over the Te Manawa o Tuhoe block, where they hoped to arrange forestry plantations.⁴²⁹ The park board's role in this process was to indicate just which lands it saw as 'desirable acquisitions'.⁴³⁰ Over the course of 1975, it stated that it wanted all of Te Pae o Tuhoe (22,549 acres), Tuhoe Kaaku (4,722 acres), and the Maungapohatu lands (excepting the burial reserve) of about 6,500 acres. It also wanted 'roughly the whole' of the Tuhoe-Tuawhenua block (39,741 acres), that is the lands around Ruatahuna, except for 'land that is settled and under occupation'; and all of Te Manawa o Tuhoe (21,225 acres) excluding the 9,400 or so acres planned for afforestation.⁴³¹ All in all, therefore, the park board sought to acquire at least 70,000 acres of Tuhoe land to add to the park.

The way in which the park board approached deciding which areas of the Te Manawa o Tuhoe block were appropriate additions is particularly telling. It first insisted on a 'buffer zone' of almost 4,500 acres to separate the land which Maori proposed to afforest from the current park boundaries.⁴³² But it then proposed that the buffer zone should be acquired for the park too. Park staff and Crown officials stated that the land quality and character was suitable, and would provide additional legal access points to the park. Their third reason for acquiring the buffer zone land in the Whakatane Valley was that, from a 'planning point of view and taking a long term viewpoint[,] it would be in the interests of the Park to have included all of the Whakatane Valley'. Buying the 'buffer zone' would 'tend to "close off" the valley in a pincer movement and while offering a measure of "protection" from the ubiquitous pine plantations could also influence the thinking of future acquisitions up valley'.⁴³³ In other words, this purchase was recommended as

428. Tuawhenua Trust, meeting minutes, Te Umuroa Marae, Ruatahuna, 28 September 1974 MLC 45/198, Maori land Court, Rotorua, p 6 (Bassett and Kay, comps, supporting papers to 'Ruatahuna: Land Ownership and Administration' (doc A20(a)), vol 1, p 114)

429. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 47

430. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 49; 'Minutes of Meeting of Committee set up by Minister of Lands to Investigate Possible Exchanges of Tuhoe Lands', 19 November 1975 (Brian Murton, comp, supporting papers to 'The Crown and the Peoples of Te Urewera, 1860–2000: The Economic and Social Experience of a People', various dates (doc H12(a)(i)), p 70)

431. Commissioner of Crown lands, file note, 2 April 1975 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(i)), p 66); Urewera National Park Board, notes of meeting of planning and buildings committee, 7 July 1975 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 37); 'Tuhoe Lands Chronology of Events', no date (Parker, 'List of Documents' (doc M27(b)), p 763)

432. 'Te Manawa o Tuhoe', 23 April 1975, enclosure to Conservator of Forests to commissioner of Crown lands, Hamilton, 24 April 1975 (Parker, 'List of Documents' (doc M27(a)), p 478)

433. JA Tobin, planning officer, to chairman, Urewera National Park Board, 9 March 1976 (Parker, 'List of Documents' (doc M27(a)), p 406)

a tactical move in support of a long-term strategy: completely isolating all Maori land in the Whakatane Valley in order to increase the likelihood that it might be sold for inclusion in the park.

The proposed 'Heads of Agreement', drafted for the trust board's consideration by the commissioner of Crown lands and chairman of the park board, RM Velvin, was emphatic:

The Urewera National Park Board and the Crown are desirous of including within the boundaries of the Urewera National Park the Tuhoe lands comprised in the Tuhoe Tuawhenua, the Te Pae-o-Tuhoe and the Tuhoe Kaakuu Blocks for the more efficient management of the National Park and for the preservation of the forest and vegetation on these blocks.⁴³⁴

Velvin proposed that Tuhoe 'would surrender day to day control' of these three blocks to the Crown, by leasing them in perpetuity for inclusion in the national park. In return, the Crown offered to afforest to an equivalent value two abandoned farm settlements totalling 6,000 acres at Matahina and Ashdown, on the eastern bank of the Rangitaiki River.⁴³⁵

The trust board took the Crown's proposal to their people gathered at Ruatahuna in October 1978. Tuhoe rejected the deal. They were not prepared to accept that the quantity and value of Crown land being offered was an adequate exchange for what was the bulk of their remnant land. The trust board did not feel able to push the matter, as it had not yet finalised its own position. The impetus from Tuhoe therefore fell away.⁴³⁶ Meanwhile, key Crown officials' enthusiasm for the proposed deal over the forest enclaves also cooled, primarily due to rapid increases in the value of native timber.⁴³⁷ It was agreed to try and progress the Te Manawa o

434. *Heads of Agreement between Tuhoe-Waikaremoana Trust Board and Her Majesty the Queen and the New Zealand Forests Service*, no date (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), p 36)

435. Commissioner of Crown lands, Hamilton, to secretary, Tuhoe-Waikaremoana Maori Trust Board, 31 May 1977 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 339); Conservator of Forests, Rotorua to Director-General of Forests, 12 December 1977 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), pp 30-34)

436. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 835; Tuhoe Lands Working Party Committee, minutes, 11 October 1978 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), pp 53-55); see also commissioner of Crown lands, Hamilton, to Director-General of Lands, 7 October 1977 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), pp 46-47); Campbell, 'Te Urewera National Park' (doc A60), pp 118-125; Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 51

437. Commissioner of Crown lands, Hamilton, to secretary, Tuhoe-Waikaremoana Maori Trust Board, 31 May 1977 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 339); commissioner of Crown lands to Director-General of Lands, 17 June 1977 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), pp 25-26); Conservator of Forests, Rotorua, to Director-General of Forests, 12 December 1977 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), pp 30-34); commissioner of Crown lands, Hamilton, to Director-General of Lands, 15 December 1977 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 460); Tuhoe Lands Working Party Committee, minutes, 11 October 1978 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(1)), p 80)

Tuhoe proposals instead. The trust board, indeed, always prioritised negotiations over the Te Manawa o Tuhoe block, as a ‘test case’, which would enable development on some of their remaining land, and prove to their people that something substantive could come of these negotiations with the Crown.⁴³⁸ This would also prevent the Crown officials from simply negotiating for what they most wanted – the forest enclaves within the park – which they saw as much more desirable acquisitions than the more peripheral portions of Te Manawa o Tuhoe.⁴³⁹

Tuhoe had formed a development plan for Te Manawa o Tuhoe, combining a land exchange with leases for afforestation to the Forest Service and to private interests. The land exchange involved the Crown acquiring the freehold to the 4,430 acres of Tuhoe land seen as most ‘essential’ to the park in exchange for the freehold to 1,160 acres of Crown land near Waiohau, which the trust board planned to plant in pines. This forestry project would be funded by a combination of the proceeds of the leases and Government grants.⁴⁴⁰

As we discuss further in chapter 18, this complex package ‘deal’ met a series of obstacles. The exchange proposal first stalled in 1978, after the Maori Land Court ruled that landowner objections meant the trust board could ‘treat but no more’ with the Crown over the exchange. Once the block was surveyed, however, the board would be permitted to conclude negotiations over the leases. Then a succession of complications delayed matters and upset the agreed values for exchange (most importantly the lengthy time needed to survey the block, problems posed by planned hydroelectric developments, and Forest Service planting on the Waiohau lands).

The exchange proposal fell into abeyance, and by the time it was finally dismissed in 1988 the Lands Department was reported as having no interest in it.⁴⁴¹ However, the two leases were eventually negotiated: the Crown leased some 5,230 acres for afforestation in 1979, and a subsidiary of Tasman Forestry Ltd leased another 5,985 acres in 1981.⁴⁴²

The collapse of the proposals for Te Manawa o Tuhoe effectively ruled out any chance of re-opening negotiations for the other three forested blocks. Thus, in April 1979 Velvin directed the Department of Lands and Survey planning officer that he was not to take ‘further action’ to acquire Maori land in the Whakatane

438. Tuhoe Lands Committee Working Party Committee, minutes, 24 March 1977 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(b)), pp 330–331); secretary, Tuhoe-Waikaremoana Maori Trust Board, to Minister of Lands, 18 May 1977 (Parker, ‘List of Documents’ (doc M27(b)), p 808)

439. Commissioner of Crown lands, Hamilton, file note, 4 January 1979 (Murton, supporting papers to ‘The Crown and the Peoples of Te Urewera’ (doc H12(a)(1)), pp 13–14)

440. Minister of Forests and Minister of Lands to Cabinet, no date (Parker, ‘List of Documents’ (doc M27(b)), p 811)

441. Commissioner of Crown lands, Hamilton, file note, 4 January 1979 (Murton, ‘The Crown and the Peoples of Te Urewera’ (doc H12), pp 831–833)

442. Nikora, ‘Te Urewera Lands and Title Improvement Schemes’ (doc G19), p 48; Murton, ‘The Crown and the Peoples of Te Urewera’ (doc H12), pp 831–833; Campbell, ‘Te Urewera National Park’ (doc A60), p 120

and Waimana Valleys.⁴⁴³ From this point onwards, Crown officials and the park's management have only ever showed intermittent and low key interest in acquiring small blocks of Maori land to include in Te Urewera National Park, and these followed initiatives from landowners themselves; no acquisition has eventuated.⁴⁴⁴

Various reasons for the complete breakdown in negotiations have been suggested to us, and we explore these further in chapter 18.⁴⁴⁵ In brief, our view is that, first, the proposed arrangements were technically very complex, involving establishing values for packages of land and native and exotic timber and maintaining equity between them over time. Secondly, and crucially, both parties became sceptical of the benefits of any proposed deal. Tuhoe landowners became increasingly distrustful of the proposal that they effectively relinquish their forest lands. Some lost faith in the trust board, too, as hopes arose that commercial helicopter hunting and deer farming might make their lands viable.⁴⁴⁶

Crown officials, meanwhile, were also largely content to let matters lie. This was partly due to the ever increasing costs of acquiring the Maori lands and timber. But it was also, we consider, because the Crown increasingly perceived it had little to gain by acquiring the Maori land for the park: since milling the forest covering the land was no longer an option, there was simply very little that could be done to it.

Key elements in Tuhoe that remained committed to attempting to negotiate the land exchanges had anticipated the potential for this problem to emerge. They adopted a rather extraordinary response to try to forestall it. In late 1976, Tama Nikora pressed the park board into trying to gain a ministerial requirement that the Maori enclaves be designated as proposed national park in local body district plans.⁴⁴⁷ Nikora was perhaps prompted to adopt this tactic because (as we discuss in the next sub-section), in about 1970 just such a designation had been placed over the Waikaremoana reserves.

Designations of private land as 'Proposed National Park' provided that no activity could occur on the land without the consent of the authority with financial responsibility for the designation. Designation by ministerial requirement so interfered with owners' property rights that, as Department of Lands and Survey advice to park boards carefully explained, it 'should be avoided if at all possible', as it 'indicates eventual purchase by the body having financial responsibility'.⁴⁴⁸

443. RM Velvin, chairman, Urewera National Park Board, to planning officer, Urewera National Park Board, 27 April 1979 (Campbell, 'Te Urewera National Park' (doc A60), pp 124–125)

444. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 64–65

445. Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), p 31; Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 836–837; Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 461; Campbell, 'Te Urewera National Park' (doc A60), p 109

446. Tuhoe Lands Working Committee, minutes, 11 October 1978 (Parker, 'List of Documents' (doc M27(b)), pp 698–700)

447. Urewera National Park Board, minutes, 8 December 1976 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 362)

448. 'Lands and Survey: Identification and Assessment of Potential Areas for National Parks' (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 95, 97)

After the park board chairman Velvin (who was, of course, the commissioner of Crown lands) explained that the Department of Lands and Survey would have to formally initiate any such proposal as the park board could not accept financial responsibility, the park board resolved to request the department to do so. Nikora raised the idea again in 1977 at a meeting of the working party committee trying to negotiate the exchanges of Tuhoe lands. Velvin opposed the idea, arguing that designation of Maori land had caused ill-feeling elsewhere, and was inappropriate while the parties remained in negotiation. But Nikora insisted that the designation was needed, because ‘the possibility existed that the Crown could abandon the exchange proposals at any stage leaving the Tuhoe people almost nothing as far as their land was concerned and he considered that a ministerial designation would protect them and hold the Crown to complete the current dealings’.⁴⁴⁹

In 1978, the park board once again resolved to seek a ministerial requirement for a designation, and now approached the National Parks Authority. In doing so it anticipated that the designation might serve dual purposes. On the one hand, the board echoed Nikora, restating his hope that a designation would have the effect of ‘forcing the various parties to pursue the negotiations more actively’. But, on the other hand, the designation appealed to the board as ‘restraining the owners meanwhile from undertaking any development of the land that would conflict with the National Park concepts that were strictly applied in the park land surrounding the enclaves’.⁴⁵⁰

The chief ranger listed the designation’s likely effects – just in respect of Maungapohatu – as restraining ‘incompatible developments’ such as extensive planting of exotic trees, the development of deer farming, the development of a tourist-oriented airstrip, or the construction of buildings that might perpetuate the existence of the logging road. It would also, ‘under certain circumstances’, bring about ‘eventual purchase’ for the park.⁴⁵¹

The Crown did not grant the park board’s request that the Maori land which it sought to acquire be designated proposed national park.⁴⁵² In addition to the reasons already given by Velvin, the most obvious cause for this is the potential for a very large liability to be incurred. But, as we have seen, Nikora’s fears were realised: the negotiations were abandoned.

In summary, we have emphasised that to understand what role the Crown’s desire to expand the park played in the negotiations of the 1970s, it is necessary to consider just what was at stake for the parties to these negotiations. Tuhoe had perceived that their very existence in Te Urewera was in peril. Their leadership

449. Tuhoe Lands Combined Committee Working Party Committee, 24 March 1977 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(b)), p 333)

450. Urewera National Park Board, minutes, 12–13 September 1978 (Campbell, ‘Te Urewera National Park’ (doc A60), p 124); Urewera National Park Board, minutes, 8 December 1976 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 362); Urewera National Park Board, ‘Annual report for the year ended 31/3/1979’ (Campbell, ‘Te Urewera National Park’ (doc A60), p 124)

451. Chief ranger to chairman, Urewera National Park Board, 26 July 1979 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 83)

452. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 82

addressed the fundamental questions of whether and on what terms Tuhoe communities might still have a future in Te Urewera, or whether they should simply surrender their forest lands to the park.

For its part the Crown at times acknowledged that its honour was at stake, and admitted an obligation to see justice done to Tuhoe for the effects of milling restrictions. But by the mid-1970s the Crown considered these effects were largely historical. And, since the Crown was only prepared to provide compensation by acquiring title (by purchase or perpetual lease) over land where milling was restricted, its motives for discussing compensation dovetailed neatly with its desire to acquire more land for the park.

We therefore fully concur with Neumann that ‘[a]ny interest the Crown had in purchasing further land within the old boundaries of the Urewera District Native Reserve stemmed not so much from its desire to compensate Maori [for the milling restrictions] but was motivated by ideas to enlarge the Urewera National Park.’⁴⁵³ In many ways, enlarging the park for this reason was more a matter of convenience than of ideology. As we have seen, public fears about soil erosion, flooding, and deforestation (more so than any real risk of such things) were a key driver in the Crown’s actions. Maori Affairs officials such as Jock McEwen reminded Ministers that Maori owners were surely entitled to compensation. But the Government was mostly adamant that it would acquire their land and trees for all time, rather than pay them (for the meantime) not to log their forests. In these negotiations, the park was the intended beneficiary rather than the key motivator.

As the negotiations dragged on, the Crown’s interest in acquiring more Maori land for the park became somewhat academic. There are many reasons for this. At a technical level, it became harder and harder for officials to match the values attributed to the forest on Maori land with those for proposed exotic forestry on Crown land. But, more importantly in our view, officials had less and less reason to try: since sawmilling on Maori land in Te Urewera had wound up, there was no longer any imminent danger to the remaining forests. This meant in effect, as the commissioner of Crown lands made explicit in 1984, that the Maori enclaves throughout the park were already ‘when all is said and done, protected as virtual national park.’⁴⁵⁴

16.6.2.3 Lake Waikaremoana and the Waikaremoana reserves

The Crown’s interest in securing the Maori ‘reserves’ in the Waikaremoana block for the national park stemmed from the desire to have complete control over development around the lake, considered then as now the centre piece and main attraction of the national park. The park management wanted to retain its monopoly on lakeside development and associated tourist revenue. It also wanted to ensure that the lake margins remained ‘pristine’. These motivations were interwoven with the

453. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 204

454. Commissioner of Crown lands, Hamilton, ‘Head Office committee: reserves – protected private land, South Auckland Land District’, 23 October 1984 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 23)

Crown interest in purchasing the bed of Lake Waikaremoana. We consider broad issues relating to Lake Waikaremoana in a subsequent chapter. Our concern here is simply with the Crown's attempts to incorporate the reserves and the lake into the park.

The Waikaremoana reserves were created in the course of the Urewera Consolidation Scheme. As we discussed in chapter 14, through the scheme the Crown acquired all of the large Waikaremoana block (73,667 acres), with the exception of these 14 small reserves totalling 607 acres, which Ngati Ruapani retained on the lake shore. Tuhoe and Ngati Kahungunu retained no lands whatsoever in the block. As we saw in chapter 14, the Crown's subsequent failure to honour its promises to provide Ngati Ruapani with additional land south of the lake meant that many of the reserves' owners already possessed insufficient lands.

The attractions of Lake Waikaremoana mean that these reserves are potentially extremely desirable and valuable lakeside real estate. Yet, the Crown promptly restricted their use and development. The Crown prohibited any alienation of the reserves (including timber cutting) other than to itself from 1929 until 1972. It did so explicitly to protect its monopoly on tourist revenue around the lake.⁴⁵⁵ Throughout the 1930s and 1940s, Crown officials actively enforced the prohibition prior to the park's creation. They stopped the reserves' owners from taking any timber from their land. And they prevented owners from developing their land to gain from the demand for lakeside accommodation.⁴⁵⁶ This, it should be noted, was at a time when the Waikaremoana peoples were described as having been reduced by Crown actions over their lands to an 'appalling state of indigence'.⁴⁵⁷

Unsurprisingly, the Waikaremoana reserves were a particular focus of claims before us that the Crown placed 'severe restrictions' on the use and development of Maori land. The claimants further alleged that the park board colluded with other agencies to prevent development on the Waikaremoana reserves.⁴⁵⁸ The Crown has denied these claims, on the basis that many Maori shared officials' and park management's legitimate concerns over development around the lake.⁴⁵⁹

We have no doubt that the Crown and park management, working in close conjunction with local authorities, did severely restrict use and development of

455. Walzl, 'Waikaremoana' (doc A73), pp 255–259

456. Ibid, pp 253–266, 328–330; Craig Innes, 'Report on the Tenure Changes Affecting Waikaremoana "Purchase Reserves" in the Urewera Inquiry' (commissioned research report, Wellington: Waitangi Tribunal, 2003) (doc A117), pp 22, 28–32

457. Registrar, Native Land Court, Gisborne, to Native Under-Secretary, 4 August 1938 (Vincent O'Malley, comp, supporting papers to 'The Crown's Acquisition of the Waikaremoana Block, 1921–25', 3 vols, various dates (doc A50(c)), vol 3, p 784)

458. Counsel for Wai 144 Ngati Ruapani, synopsis of closing submissions, 10 June 2005 (doc N19(a)), p 37; Nga Rauru o Nga Potiki, amended consolidated particularised statement of claim for Waikaremoana, 8 October 2004 (claim 1.2.1(b), SOC EE), p 43; Wai 36 claimants, first amended particularised statement of claim, 27 April 2004 (claim 1.2.2(a), SOC IX), p 193; Ruatoki cluster of Nga Rauru o Nga Potiki, amended consolidated particularised statement of claim for Ruatoki, 8 October 2004 (claim 1.2.8(b), SOC FF), p 117

459. Crown counsel, closing submissions (doc N20), topic 33, p 19

the Waikaremoana reserves, both before but particularly after the creation of Te Urewera National Park.

As soon as the national park was established, Crown officials tried to buy the reserves.⁴⁶⁰ This followed the National Parks Authority's recommendation that the park administration 'take early action to acquire the odd pockets of Maori land bordering Lake Waikaremoana'.⁴⁶¹ In 1955, the Director-General of Lands affirmed that Crown policy was definitely to acquire the reserves for the park.⁴⁶² He told the commissioner of Crown lands for South Auckland, then in control of the park's management and administration, that in view of the National Parks Authority's recommendation, and its ongoing interest, you 'should not lose sight of any possibility of acquiring any of these areas'.⁴⁶³

However, discussions between the commissioner, his counterpart in Gisborne, and the Ngati Kahungunu leader (and member of the Wairoa County Council) Turi Carroll concluded that the reserves were not 'odd pockets of Maori land' but had been specially constituted for specific hapu, and any previous suggestions that they could be disposed of were 'out of order'.⁴⁶⁴ In fact, they determined:

It is neither logical nor reasonable to attempt to incorporate them into the Park, and we feel sure that any meetings of Assembled Owners would refuse to agree. . . .

The suggested giving of the Reserves in exchange for notices commemorating their Family Elders' names is really 'swopping substance for shadow' because Maoris have equal rights with Pakeha over the Park, but have exclusive rights to the Reserves.⁴⁶⁵

When the Director-General of Lands persisted in trying to buy the reserves, negotiations became entwined with efforts to acquire the lakebed for the park.

The Crown had always wanted to establish its ownership of the bed of Lake Waikaremoana. As we will discuss in more detail later in the report, the Government had appealed the 1918 Maori Land Court decision that Maori owned the lakebed in accordance with their own customs and usages, 'freed from any qualification or limitation which would attach to them if the rules and

460. Tony Walzl, summary of 'Waikaremoana: Tourism, Conservation & Hydro-Electricity (1870-1970)', 20 September 2004 (doc H7), p 15; Vincent O'Malley, summary of 'The Crown's Acquisition of the Waikaremoana Block, 1921-25', September 2004 (doc H5), p 22

461. National Parks Authority, minutes, 19 August 1953 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 101)

462. Walzl, 'Waikaremoana' (doc A73), p 386

463. Director-General of Lands to commissioner of Crown lands, Hamilton, 21 May 1956 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p 485); Director-General of Lands to commissioner of Crown lands, Gisborne, 16 October 1956 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p 484)

464. Walzl, 'Waikaremoana' (doc A73), p 387; commissioner of Crown lands, Gisborne, to Director-General of Lands, 16 November 1956 (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p 483)

465. Commissioner of Crown lands, Gisborne, to Director-General of Lands, 16 November 1956 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(a)), p 106)

presumptions of English law were given effect to.⁴⁶⁶ The Crown's concern in 1918 was that this decision might set a precedent for Maori ownership of the beds of other large lakes, in particular Lake Taupo and the Rotorua lakes. But the Crown's appeal was not finally heard until 1944, by which time the Crown had negotiated settlements for those other lakes, and so saw the question as more a matter of principle.⁴⁶⁷ The Crown lost its appeal, comprehensively, though it only finally conceded the case on 13 September 1954, days before the deadline to appeal to the Supreme Court.⁴⁶⁸

The Waikaremoana peoples were now the recognised legal owners of the bed of Lake Waikaremoana. They also now owned Patekaha Island, of almost 20 acres, and several other small islets in the lake. Meanwhile, however, the Crown continued acting as if it owned the lakebed. Most importantly, in 1944, the same year in which the courts confirmed that the Waikaremoana peoples owned the lakebed, the Crown continued developing its Waikaremoana hydro electricity scheme by driving a tunnel through the lake's natural earth dam, and starting to draw water directly from the lake.⁴⁶⁹

We assess the injurious effects of the hydroelectric scheme in a subsequent chapter. Here we note only that it lowered lake levels, and so impacted on the lake fishery, as well as affecting tourism.⁴⁷⁰ But another, quite unexpected consequence was that lowering the lake's level created a substantial ring of Maori-owned land around the waters' edge (some 280 acres in total). This made anyone accessing the lake, or building amenities on its shore, liable for trespass. As the Minister of Lands, Clarence Skinner, pointed out to Prime Minister Walter Nash:

if the Maoris cared to exercise their rights they could stop all access to the lake. Moreover, the National Parks Authority is being prejudiced in its plans for the development of the Park because it cannot establish parking areas, conveniences etc. near the water's edge as these would be on Maori land.⁴⁷¹

Also, since Waikaremoana was a 'private lake', a later Crown Law opinion in 1966 said that there was no public right of boating either; not only did boaters have to trespass on private land to get to the lake, they were still trespassing once they were on it.⁴⁷²

466. Maori Appellate Court, minutes, 28 March to 1 August 1944, 'Lake Waikaremoana Crown Appeal, Judgement', September 1944 (doc H2), p 154; Emma Stevens, 'Report on the History of the Title to the Lake-bed of Lake Waikaremoana and Lake Waikareiti' (commissioned research report, Wellington: Crown Forestry Rental Trust, 1996) (doc A85), p 37

467. Walzl, 'Waikaremoana' (doc A73), p 353

468. Ibid, pp 352–353

469. Ibid, pp 358–359

470. Ibid, pp 359–364

471. Minister of Lands to Minister of Maori Affairs, 8 December 1959 (Tony Walzl, comp, supporting papers to 'Waikaremoana: Tourism, Conservation & Hydro-Electricity (1870–1970)', 4 vols, various dates (doc A73(b)), vol 2, p 920)

472. Walzl, 'Waikaremoana' (doc A73), pp 464–465

Only now that it realised that the park's core interests were at stake did the Crown at last commit to serious negotiations over ownership and use of the bed of Lake Waikaremoana. Until this point negotiations had been only intermittent, and on the Crown's behalf decidedly half-hearted. There was a gulf between the owners and the Crown over the value of the lake, and the form any compensation should take. In fact officials saw little need for any settlement. They considered that there was no need to pay for past or future use of the lake, arguing there was little development of the lakebed itself, and that the owners had not been prejudiced by use of the water flowing from the lake for hydroelectric purposes.⁴⁷³

At this stage officials also did not consider that the lake was needed for the national park (over and above the fact that it was already located inside it). As the Director-General of Lands, whose department was running the park before a park board was appointed, put it:

Certainly from added scenic views the lake is of value to the Park but apart from this is not an integral part of the Park. Any restrictions governing the Park area do not effect [*sic*] the lake nor do they conflict with the lake's use. Consequently it is of no great concern whether the lake forms part of the Park or not.⁴⁷⁴

So, when pleas from Waikaremoana Maori in 1958 prompted Prime Minister and Minister of Maori Affairs Walter Nash to reconsider negotiating, officials struggled to provide a basis for a Crown position.⁴⁷⁵ They eventually based a suggested settlement offer of £10,000 purely on the value of the lake for generating fishing licence revenue.⁴⁷⁶ During this process officials agreed that the Waikaremoana reserves should be bought as well, and proposed offering their owners £2,000.⁴⁷⁷

When the Waikaremoana peoples came in force to Wellington in August 1959, and met with Prime Minister Walter Nash, Minister of Lands Clarence Skinner, and Minister of Forests Eruera Tirikatene, the yawning gap in expectations was immediately apparent. Nash frankly acknowledged he was 'fearful' of the prospects for any lakebed settlement. The deputation, for its part, also made clear that the owners of the Waikaremoana reserves would not sell them.⁴⁷⁸ While there was some awareness within Government that the reserves' owners were a distinct group among those who owned the lakebed, it had been proposed since the late 1950s to deal with them at the same time so as to save trouble and expense (for the owners).⁴⁷⁹ Mr McGregor of Wairoa, who spoke on behalf of the Waikaremoana

473. *Ibid*, pp 391–396

474. Director-General of Lands to Commissioner of Works, 18 June 1958 (Walzl, 'Waikaremoana' (doc A73), p 397)

475. Walzl, 'Waikaremoana' (doc A73), pp 398–400

476. *Ibid*, p 438

477. *Ibid*, pp 404–405

478. 'Notes of Deputation to the Right Hon the Minister of Maori Affairs, the Minister of Lands and the Minister of Forests', 19 August 1959 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), p 933)

479. Walzl, 'Waikaremoana' (doc A73), p 389

deputation, explained that the reserves ‘had a traditional significance to the people’ and they did not want to sell them.⁴⁸⁰

It seems to have been at this point that Crown officials realised the full implications of having created a ring of Maori land around the lake. Suddenly conscious that the interests of the park were at stake, Minister of Lands Skinner proposed offering £25,000 to purchase the lakebed.⁴⁸¹

The incoming first National Government adopted the gist of Skinner’s revised position. In July 1961, Cabinet resolved to offer £25,000 to purchase the lakebed, the islands in the lake and, despite the owners’ opposition, the reserves as well. This price, according to the new Minister of Maori Affairs, was to be ‘considered as including the settlement of any claims whatsoever that the owners may feel they have against the Crown in respect of its use of the bed and the waters for hydro-electric purposes’, a closely related matter which we will address later in the report.⁴⁸²

Representatives of the owners met to discuss the Crown’s offer with Richard Gerard, the incoming Minister of Lands, and Ralph Hanan, the new Minister of Maori Affairs, together with key senior officials, on 9 August 1961. The owners’ solicitor, Wiren, spoke on their behalf, saying they had decided to refuse the Crown’s offer, the points at issue being whether the Crown would agree to negotiate an annuity, and why the Crown wanted the reserves.⁴⁸³

No answer was forthcoming to the deputation’s first question, but various replies were given to the second. Minister Gerard said only that the reserves and the islands were ‘desirable additions’ to the park. Jack Hunn, secretary for Maori Affairs, considered that: ‘[i]t would just be cleaning up of the Crown ownership in the district.’ But Minister Hanan elaborated that they would ‘complete the possibilities’ for developing tourist resorts around the lake.⁴⁸⁴

Wiren then explained that if the reserves were lost ‘the people would be completely landless. They were old settlements and the people had lived there.’⁴⁸⁵ At this point the reserves were excluded from the lakebed negotiations, but these continued to flounder over the ongoing gulf in perceptions of the value of the lake,

480. ‘Notes of Deputation to the Right Hon the Minister of Maori Affairs, the Minister of Lands and the Minister of Forests’, 19 August 1959 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 933)

481. Minister of Lands to Minister of Maori Affairs, 8 December 1959 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 921)

482. Minister of Maori Affairs to Wiren, Ronayne, and Burns, 21 July 1961 (Walzl, ‘Waikaremoana’ (doc A73), pp 444–445)

483. Wiren, ‘Notes of Deputation Held in Hon Mr Hanan’s Rooms’, 9 August 1961 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 886)

484. Minister of Maori Affairs, ‘Notes of Deputation Held in Hon Mr Hanan’s Rooms’, 9 August 1961 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 886)

485. Wiren, ‘Notes of Deputation Held in Hon Mr Hanan’s Rooms’, 9 August 1961 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 886); ‘Notes of Deputation’, 9 August 1961 (Walzl ‘Waikaremoana’ (doc A73), pp 445–446)

and the issue of payment by means of an annuity.⁴⁸⁶ We are not concerned with the detail of the negotiations in this chapter.

Meanwhile the park board became concerned about rumoured commercial developments on the reserves.⁴⁸⁷ The park board's consistently stated policy was 'to preserve the Lake as far as possible in its virgin state'.⁴⁸⁸ One of the board's primary concerns was the potential for building development on Maori land, both the part exposed by the drop in lake levels, and on the reserves. As the commissioner of Crown lands told the Director-General of Lands in 1964:

Ever since the Park Board's inception, one of its main concerns has been to try and prevent the beauty of the Lake from being spoiled by the erection of buildings around the foreshore as has happened with most of the North Island lakes: and its constant anxiety had therefore been that the Maori owners of the lake bed or the Reserves might be persuaded to allow building on the lands.⁴⁸⁹

The park board had no legal authority to control use or development on this Maori land, but gained support for its policy of preserving the lakeshore 'free from buildings' from the Wairoa County Council.⁴⁹⁰ However, the council also acknowledged that it was in 'an embarrassing position. It is as anxious as the Board to prevent building around the Lake but it is equally conscious of the limitations of its powers'.⁴⁹¹ The council had 'temporized' by requiring Maori attempting to build on one of their reserves to submit building plans, but could not refuse a building permit 'if application were made in the proper way'.⁴⁹²

The park board therefore asked the National Parks Authority to 'expedite steps' to acquire both the reserves and the lakebed.⁴⁹³ The authority agreed, and resolved that as a matter of policy the reserves should be purchased or acquired through exchange as soon as practicable.⁴⁹⁴ Park board members Charlie Nikora and John Laughton were then sent to reassure owners that the board's desire to acquire the lakebed and reserves was to ensure 'their beauty would be preserved for all people

486. Walzl, 'Waikaremoana' (doc A73), pp 445-447, 450, 452-453

487. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 53-55

488. Chairman, Urewera National Park Board, to A McPhail, Gisborne, 24 June 1968 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 86)

489. Commissioner of Crown lands, Hamilton, to Director-General of Lands, 2 December 1964 (Walzl, 'Waikaremoana' (doc A73), p 458)

490. Urewera National Park Board, minutes, 25-27 November 1964 (Edwards, 'Te Urewera National Park' (doc L12), p 88)

491. Commissioner of Crown lands, Hamilton, to Director-General of Lands, 2 December 1964 (Walzl, 'Waikaremoana' (doc A73), p 479)

492. Urewera National Park Board, minutes, 25-27 November 1964 (Edwards, 'Te Urewera National Park' (doc L12), pp 88-89)

493. Commissioner of Crown lands, Hamilton, to Director-General of Lands, 2 December 1964 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), pp 644-645)

494. Campbell, 'Te Urewera National Park' (doc A60), pp 99, 129; Walzl, 'Waikaremoana' (doc A73), p 479

for all time.⁴⁹⁵ But they had such ‘a very difficult hearing’ that they suggested dropping the matter of the reserves to concentrate on acquiring the lake.⁴⁹⁶ The commissioner of Crown lands for South Auckland (the park board’s chairman) concurred; he reasoned that when this was achieved, the acquisition of the reserves would ‘follow naturally and with not so much difficulty’.⁴⁹⁷ The board accepted this position at its August 1966 meeting.⁴⁹⁸

By now the Government was once more seriously considering acquisition of the lakebed for the park. As the Director-General of Lands put it:

It is felt that a large lake such as Waikaremoana should be in Crown ownership in view of its situation within the Urewera National Park, its use for recreational pursuits and its scenic attractions. I think it is generally accepted among the owners that sale to the Crown is the proper course to follow and the question then arises of what the price should be.⁴⁹⁹

However, at a meeting on 16 November 1966 the owners again rejected the maximum price the Crown was prepared to pay, now £35,000. Eruera Tirikatene and Norman Kirk, leader of the opposition, both indicated to owners at the meeting that a Labour Government would pay more. One official noted afterwards that he thought double the Crown’s proposed figure, at least, would be necessary. But the commissioner of Crown lands for South Auckland, FS Beachman, wrote to the Director-General of Lands that he had been told ‘had we asked them to reserve this land as part of Urewera National Park in such a manner that the Maori people were not having all their ancestral ties (if any) severed completely from it we would not have met with any opposition on cost’.⁵⁰⁰ The commissioner thought that the owners seemed to be thinking of a Maori Reservation under section 439 of the Maori Affairs Act 1953, with control and management vested in the park board.

The Crown’s desire to buy the lakebed was further spurred at this time by growing uneasiness about the nature of Maori rights of ownership, and the ramifications of those rights. First, as we mentioned above, legal advice in December 1966 questioned whether the public had any right of navigation on the lake unless Maori owners granted such rights (and even if there was such a right, boat owners would have to cross privately owned land to get access to the water). Crown

495. TC Nikora, Urewera National Park Board, minutes, 18 February 1965 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(b)), p 289)

496. Urewera National Park Board, minutes, 5–6 May 1965 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), pp 81–82)

497. Commissioner of Crown lands, Hamilton, to Director-General of Lands, 3 June 1965 (Walzl, ‘Waikaremoana’ (doc A73), p 480)

498. Campbell, ‘Te Urewera National Park’ (doc A60), pp 99–100

499. Director-General of Lands to secretary for Native Affairs, 7 April 1966 (Walzl, ‘Waikaremoana’ (doc A73), p 460)

500. Commissioner of Crown lands, Hamilton, to Director-General of Lands, 29 November 1966 (Walzl, ‘Waikaremoana’ (doc A73), p 463)

lawyers suggested persons boating on the lake were 'probably in law trespassers'.⁵⁰¹ Maori owners had not restricted boating in any way. But the Marine Department could not legally regulate navigation on the lake to ensure public safety.

Further issues surfaced after a deputation from Waikaremoana Maori to the Minister of Lands in November 1967 persuaded the Government to agree to provide a valuation of the bed of Lake Waikaremoana.⁵⁰² Asked whether the owners were willing to include the reserves in negotiations, the deputation yet again reiterated the owners' 'strong objection to sale to the Crown', but agreed to the reserves being valued; and to 'some form of reservation' to prevent sale or commercial exploitation.⁵⁰³

The valuation provoked discussion among officials of the national park board's plan to build a new park headquarters at the lake – which raised questions about the exact location of the lake shore and therefore the extent of Maori title. It emerged that significant features on Maori land included parts of the main highway between the Lake House Motor Camp and Aniwaniwa, parts of the motor camp and motel grounds, two park board huts, and a boatshed.⁵⁰⁴

The valuation also gave officials pause as they sought to clarify the legal situation: were they right in thinking that the Crown owned the waters of the lake, while the bed was vested in Maori owners? Legal advice from the Lands Department office solicitor in February 1968 suggested that as Lake Waikaremoana was a non-tidal lake, the bed vested in Maori owners and 'unless there are statutory provisions the water while in the lake, would be in the ownership of the persons owning the bed of the lake or riparian rights'. The Director-General of Lands advised the Valuer-General accordingly: 'In view of the fact that I have no evidence to the contrary, it must be accepted that the waters of the lake are in the ownership of the persons owning the lakebed. The Crown does, however, have the sole right to use these waters for certain purposes.'

He referred to the Crown's exclusive statutory right to use water to generate hydroelectric power, stating that the owners of the waters in the lake had 'no right to stop the water flowing from the lake'.⁵⁰⁵ We will consider the broader implications of this legal advice in a subsequent chapter. Here, we are concerned to set out the various factors which contributed to the negotiated arrangements in respect of the lake. Of these, the most important was still the perceived effects of Maori land ownership on the national park, and vice versa.

501. Rockel to secretary, Marine Department, 8 December 1966 (Walzl, 'Waikaremoana' (doc A73), p 64)

502. Walzl, 'Waikaremoana' (doc A73), pp 480–481

503. Handwritten notes on meeting of owners of Lake Waikaremoana with Minister of Lands, 21 November 1967 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), pp 776–777)

504. Walzl, 'Waikaremoana' (doc A73), pp 469–472

505. The Water-power Act 1903 vested the sole right to use water for the purpose of generating electricity in the Crown: see Director-General of Lands to Valuer-General, 26 March 1968 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), p 756).

The Valuer-General supplied a special valuation of the lakebed on 14 October 1968: \$147,000 in total, of which \$70,000 was for the land under water, \$73,000 for 280 acres of exposed land, and \$4,000 for improvements. This amount was much more than the Crown had been prepared to pay for the lakebed previously. The Valuer-General also valued the Waikaremoana Reserves at almost \$50,000, which illustrates that the Crown's offer of just £2,000 for the reserves in 1959 was simply risible.⁵⁰⁶

Despite the greatly increased purchase price, the Director-General of Lands urged that the lakebed simply had to be acquired for the park:

The control of Lake Waikaremoana should be in the hands of the Crown so that its boating, fishing and scenic attractions will be preserved for the public for all time. The land outside the title boundary forms the major part of Urewera National Park and the National Parks Authority is being prejudiced in its plans for the development of the Park because it cannot establish parking areas, conveniences etc. near the water's edge as these would be on Maori land. Furthermore, if the Maori owners cared to exercise their rights of ownership they could stop all access to the Lake.⁵⁰⁷

The park board was equally concerned. It saw the control and management of the lakebed and the newly exposed surrounding strip of Maori land as its 'over riding management problem'.⁵⁰⁸

In June 1969, Cabinet approved an offer of \$143,000 (the special valuation minus an allowance for the existing improvements such as the motel and motor camp, spread over 10 years with interest at five per cent per annum. Officials told owners: 'It was the Crown's desire to have the Lake in public ownership as part of the Urewera National Park when it would be available to all the people of New Zealand – including the Maori people'.⁵⁰⁹

But the owners unanimously rejected the Crown's offer. They resolved instead to offer the Government a 50-year lease with a perpetual right of renewal. The rent was to be set at six per cent of valuation, reviewed at 10-yearly intervals. In October 1969, Lands officials told their Minister that there was 'no possibility that the owners will agree to the Crown taking over the lake on any other basis'.⁵¹⁰ Their offer became the basis of the lease agreement finally signed at Taihoa Marae in August 1971, and then formally validated by the Lake Waikaremoana Act 1971. The rental was backdated to 1967.⁵¹¹

506. Deputy Valuer-General to Director-General of Lands, 2 October 1968 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), p 1101)

507. Director-General of Lands to Minister of Lands, 12 November 1968 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), p 1090)

508. Department of Lands and Survey, *Urewera National Park Management Plan, 1970*, p 16 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1339)

509. Recording officer, 26 September 1969 (Walzl, 'Waikaremoana' (doc A73), p 474)

510. Walzl, 'Waikaremoana' (doc A73), p 475

511. *Ibid*, pp 475–477

We will examine Treaty claims about the lease and its terms, and about the Treaty-consistency of these long negotiations over Lake Waikaremoana, in a subsequent chapter. Here, we note the point that it was the interests of the park that ultimately pushed the Crown to agree to an arrangement by which the Maori owners would at long last obtain a financial return on what was – at one level – an ‘economic asset’.

In the submissions of counsel for the Wai 36 Tuhoe claimants, the ‘primary focus of the Wai 36 Claim has been the Crown’s actions in preventing Tuhoe from obtaining a full economic return from its asset.’⁵¹² One key part of that claim was ‘the use of the lake as part of the Crown’s scenery preservation and National Parks estate prior to 1967.’⁵¹³ In the claimants’ view, the 1971 Act provided for the rental payment to be backdated to 1967. In reality, they argued, it should have dated from the Crown’s effective use of the lake for the park (since 1954), and even further back to the prior use of the lake for ‘acclimatisation, preservation and tourism’, which the claimants dated to 1910. In other words, the Crown used the lake for the national park from 1954 but did not start paying its owners until (effectively) 1967.⁵¹⁴ This point was also made by counsel for Wai 144 Ngati Ruapani, who pointed to the owners’ request for an annuity that reflected past use of the lake, which the eventual lease arrangements did not provide.⁵¹⁵

As we have already noted, we will consider claims about the lease in a later chapter. Here, we note our agreement with the claimants that the Crown should have paid for the use of their lake in the national park from 1954, and that the rental should have been backdated to at least that date. In August 1961, the owners had made it clear that they wanted any annuity to reflect the Crown’s past use of the lake (described in 1961 as the previous 40 years).⁵¹⁶ During the lengthy negotiations, much of the debate within Government had been over whether it really needed to purchase or lease the lakebed, since it effectively already had the lake in the national park. It was the lowering of the lake level, and the sudden creation of a ring of Maori land around the lake, that forced the Crown to act so as to secure the lake more practically and effectively for the park. From 1967, the Maori owners – in the form of two tribal trust boards – at last secured an economic return for their ‘asset’. For the 45 years since then, they have received an annual rental. In that sense, the park and its imperatives had a positive effect on the economic opportunities available to Tuhoe, Ngati Ruapani, and Ngati Kahungunu, albeit a tardy one.

The question might be asked: if there had been no national park, would the Crown have had to negotiate an arrangement for public access anyway, for boating, fishing, and other recreational uses of the lake? That would likely have been

512. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 72

513. *Ibid*, p 73

514. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), pp 72–73; counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), pp 146–147

515. Counsel for Wai 144 Ngati Ruapani, closing submissions (doc N19), app A, pp 72–73

516. *Ibid*, p 72

the case, as occurred for the Taupo waters in the 1920s.⁵¹⁷ But if there had been no park, Maori could have taken a significant role in local tourism, by erecting lake-shore accommodation and taking advantage of prime lakeshore locations. While the existence and needs of the park pushed the Crown into a long-term lease, it also prevented Maori from benefiting from their lake in other ways, had some other kind of access arrangement been negotiable.

Despite Crown officials making ‘every endeavour’, the arrangements for the lease of the bed of Lake Waikaremoana did not include the Waikaremoana reserves.⁵¹⁸ Yet, the Crown did not give up on the idea of purchase. As the commissioner of Crown lands for South Auckland (and park board chairman) emphasised in March 1972, ‘the Crown is actively engaged in attempting to acquire these lands.’⁵¹⁹ But the Crown’s primary focus was now on ensuring that use of the reserves did not threaten the park.

The issue of buildings around the lake had come to a head in 1968, and Crown officials resorted to new tactics. The chief surveyor in the Gisborne office of the Lands and Survey Department, who was a member of the Master Planning Committee of the national park board, ‘undertook for the park board’ to approach the Wairoa County Council. He persuaded it to designate the reserves, and the former (exposed) lakebed, as ‘Proposed National Park’ in the draft district plan.⁵²⁰ This occurred after the window for public submissions on the draft plan closed in August 1968; the plan became operative on 1 January 1971.⁵²¹ Thus, there was no opportunity for the Maori owners to contest this provision in the plan.

Brad Coombes has argued that the park board ‘colluded’ with the Wairoa County Council over the designation.⁵²² Evidently, the two bodies had a close working relationship and nowhere more so than over this matter.⁵²³ In fact, however, their cooperation was at the specific behest of the Crown: the Director-General of Lands assured the Minister of Lands in March 1969 that the park board and county council were together taking action to remove existing unauthorised

517. See Waitangi Tribunal, *He Maunga Rongo: Report on the Central North Island Claims, Stage One*, revised ed, 4 vols (Wellington: Legislation Direct, 2008), vol 3, pp 1295–1333

518. Director-General of Lands to Director-General of Forests, 1 September 1972 (Campbell, ‘Te Urewera National Park’ (doc A60), p 131)

519. Commissioner of Crown lands, Hamilton, to Director-General of Lands, 14 March 1972 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 995)

520. Chief surveyor to Director-General of Lands, 13 December 1968 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), pp 1085–1086; planning surveyor to Porter and Martin, 2 January 1969 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 996); Campbell, ‘Te Urewera National Park’ (doc A60), p 131; chief surveyor to surveyor-general, 27 March 1972 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 542)

521. Chief surveyor to Director-General of Lands, 13 December 1968 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), pp 1085–1086; planning surveyor to Porter and Martin, 2 January 1969 (Walzl, supporting papers to ‘Waikaremoana’ (doc A73(b)), p 996); Tuhoe-Waikaremoana Maori Trust Board, submission to Minister of Maori Affairs, 18 February 1973 (Craig Innes, comp, supporting papers to ‘Report on Tenure Changes Affecting Waikaremoana “Purchase Reserves” in the Urewera Inquiry’, 7 vols, various dates (doc A117(d)), vol 4, pp 259–260)

522. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 4, 59, 561

523. Edwards, ‘Te Urewera National Park’ (doc L12), p 89; Walzl, ‘Waikaremoana’ (doc A73), p 501

buildings around the lake, and he was personally ensuring that close liaison is maintained to avoid any further private building around the lake margins pending Crown purchase.⁵²⁴ Liaison was so close that the park board, the Department of Lands and Survey, and the Wairoa County Council were for some years unsure which of them had financial responsibility for the designation (that is, for funding the ultimate purchase). This was resolved in 1972 when – to dispel doubt – the Department of Lands accepted the financial responsibility.⁵²⁵

It is important that Crown policy for the management of national parks envisaged close cooperation between park boards and local authorities; this is reflected in the 1978 *General Policy for National Parks*, which expressly instructed park boards as to the essential importance of developing close relationships with local authorities.⁵²⁶ Also, there were overlaps in membership: the National Parks Authority recommended the members of the park boards, and local councillors were sometimes recommended (and appointed) to those boards.

Since Department of Lands and Survey officials, the park board, and the Wairoa and Whakatane county councils openly worked together, as a matter of established policy and practice, their close liaison can hardly be called collusion. But this does not in any way justify their ensuring that the Maori owners of the Waikaremoana reserves could not realise any return on their land.

To understand the actual impact of these restrictions we must consider whether Maori themselves wished to develop their reserves. Crown counsel stressed to us that Maori owners of the Waikaremoana reserves opposed uncontrolled development around the lake. We accept that this was the case by the 1970s. At that time Maori owners repeatedly provided reassurances that they too wanted the reserves to remain largely undeveloped.⁵²⁷ We accept also that some of the reasons for this attitude were long-standing, since several of the reserves contain urupa and other wahi tapu.⁵²⁸ We also note that Maori appreciated the park board's help in removing huts and camps that had been erected on the reserves without their consent.⁵²⁹

But the owners did not accept that they should have no power to decide whether or not to use or develop any of their land. Their views were tactfully put to the Minister of Maori Affairs, Matiu Rata, in a submission by the Tuhoe-Waikaremoana Maori Trust Board in 1973:

524. Director-General of Lands to Minister of Lands, 10 March 1969 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), pp 1082–1083)

525. Edwards, 'Te Urewera National Park' (doc L12), p 91; chief surveyor to surveyor-general, 27 March 1972 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 542)

526. Department of Lands and Survey, 'Identification and Assessment of Potential Areas for National Parks', July 1977 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 96)

527. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 55–56

528. Te Wharehuia Milroy and Hirini Melbourne, 'Te Roi O Te Whenua: Tuhoe Claims Under the Treaty Before the Waitangi Tribunal' (commissioned research report, Wellington: Crown Forestry Rental Trust, 1995) (doc A33), pp 276–277

529. Rodney Gallen, brief of evidence, no date (doc H1), p 7; Innes, 'Waikaremoana "Purchase Reserves"' (doc A117), pp 33–34

Although the reserves were set apart for the undeniable use and occupation of those entitled, the owners say that over the years they have been persistently hampered by one Government official or other as to their use of these reserves. They capitulated to these pressures eventually and allowed their properties to revert to and remain in natural bush, which is the condition in which we find them today.

These reserves have strong historic association and attachment for the owners – some were the scene of battles and massacres, some are burial grounds and others were the settlements of the current generation. For them, therefore, total alienation is a difficult matter.

As the reserves exist today, the public have relatively unrestricted access and in point of fact these lands are used as part of Te Urewera National Park. Public opinion is that these reserves should be part of Te Urewera National Park and should be left in its current state. The public interest has, consequently, been catered for through all these lands being designated as proposed National Park in the Wairoa County District Scheme.⁵³⁰

As this submission makes plain, the owners had only very reluctantly accepted wholesale restrictions on the use and development of their reserves. This is unsurprising given that these reserves were the only lands they had retained in the Waikaremoana block. Tama Nikora was later more forthright: ‘illegal victimisation of owners by officials led to their eviction, and subsequent restrictions by the Crown have virtually prevented any use of these lands for their benefit.’⁵³¹ Mr Nikora’s statements are not exaggerated. By this time, there had been a long history of pressure on (and interference with) the reserves’ owners. Back in 1955, for example, Judge Carr had written to the commissioner of Crown lands: ‘One learns that Forest Rangers are hounding Maori owners from occupying some of these Reserves while they themselves take possession of and live in whatever buildings the owners have erected. Little do they realise that they (the Rangers) are trespassing.’⁵³²

The reserves’ owners thought it especially unfair that rates should be levied on land which they were prohibited from using. By February 1973, accumulated rates arrears on the reserves stood at around \$14,000.⁵³³ Rating pressure probably explains why owners held a meeting in early 1972 to discuss the future of the reserves. The kaumatua among the owners were reportedly ‘unanimously’ in favour of the park having control of and leasing the reserves, but wanted to negotiate the conditions of that control. Rodney Gallen was asked to open these

530. Tuhoe-Waikaremoana Maori Trust Board, submission to Minister of Maori Affairs and Lands, 18 February 1973 (Innes, ‘Waikaremoana “Purchase Reserves”’ (doc A117), p 32)

531. Tama Nikora to Evelyn Stokes, 21 April 1986 (Brad Coombes, comp, supporting papers to ‘Making “Scenes of Nature and Sport”’ and ‘Preserving a “Great National Playing Area”’, various dates (doc A121(a)), p 217)

532. Judge Carr to Wakelin, 15 August 1955 (Walzl, ‘Waikaremoana’ (doc A73), p 386)

533. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 87

negotiations; first, however, he discussed the matter with John Rangihau, Sir Turi Caroll, and Toki Carroll, and this group developed a tentative proposal which Gallen then put to the Minister of Lands, Forests, and Maori Affairs, Duncan MacIntyre, in February 1972.⁵³⁴

One aspect of their proposal was that all but one of the fourteen reserves be leased to the national park. But another key aspect of the proposal was that 'some kind of complex' which 'should as far as possible resemble outwardly at least a Pa or Kainga' be built on the remaining reserve. This would act as a conference centre, and give somewhere to stay for Maori (including the reserves' owners, who would also thereby at last gain some return from their lands) as well as for Pakeha holiday makers and people interested in Maori. It was felt, 'it would be impossible to get a better setting for co-operation' between Maori and Pakeha.⁵³⁵

Minister MacIntyre conveyed to Gallen his favourable 'immediate reaction' to their proposals in March. He noted that with the pending demolition of Lake House there would be 'something of a vacuum' in accommodation.⁵³⁶ But the commissioner of Crown lands meanwhile vehemently opposed the proposed building development, writing a confidential memorandum to his superiors in April 1972 to stress that the Minister needed to be 'fully aware' of the long-standing 'primary objective' of board policy 'to preserve the unique beauty of a lake unspoiled by buildings around its shores.'⁵³⁷

The commissioner argued that both the county council and Maori owners supported this policy. As evidence for this, he noted that the council chairman had reassured officials and the park board that no one had opposed the national park designation when the district plan was publicly notified, and that the council had no intention of lifting it.⁵³⁸ (As we noted above, this change to the district plan was actually made after public notification and the expiry of time for submissions, not before.) After the Director-General of Lands relayed the commissioner's points almost verbatim to the Minister, the proposal was quietly shelved.⁵³⁹

Tony Walzl has noted that local Crown officials and the park board learnt of the proposal to develop one of the reserves at around the same time that they discovered the Department of Maori Affairs planned to lift the long-standing alienation restrictions from the reserves, as part of a nationwide policy of lifting restrictions on alienation that 'were no longer deemed tenable to maintain'. Alarmed Crown officials asked that an exception be made for the Waikaremoana reserves; but the restriction was, it seems, lifted in October 1972. This also caused Maori

534. Gallen to Duncan MacIntyre, 25 January 1972 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), p 1008)

535. Ibid; Minister of Lands to Gallen, 13 March 1972 (Walzl, 'Waikaremoana' (doc A73), p 499)

536. Minister of Lands to Gallen, 13 March 1972 (Walzl, 'Waikaremoana' (doc A73), p 499)

537. Commissioner of Crown lands to Director-General of Lands, 27 April 1972 (Walzl, supporting papers to 'Waikaremoana' (doc A73(b)), p 999)

538. Ibid

539. Walzl, 'Waikaremoana' (doc A73), pp 501-502

some concern, as owners were worried that lifting the alienation restrictions would make their land vulnerable to being taken for rates arrears.⁵⁴⁰

The owners of the Waikaremoana reserves had failed to persuade the Crown that some development sympathetic to park values might occur. They were now faced with the possibility of piecemeal alienation in the face of rating pressure. And they too were aware of the need for better management of the reserves, given the difficulty in clearing squatters from their land. The Tuhoe-Waikaremoana Maori Trust Board therefore applied to the Maori Land Court for the lands to be declared Maori reservations under section 439 of the Maori Affairs Act 1953. After the council remitted the outstanding rates, the reserves were set aside as ‘a place of historical & scenic interest and of special emotional association’.⁵⁴¹ We are aware of some controversy over whether or not the trust board could be said to have represented the listed individual owners of these reserves, and whether it had the authority from the owners to make this application. That is not at issue here, where we are concerned with the question of how the Crown’s actions affected the choices that were made.

Strangely, it appears that rates continued to be levied. In 1976, Tamaroa Nikora reported to the park board that he had been asked by the owners whether they could derive any income from the reserves, ‘since rates were being levied on them’.⁵⁴² As Nikora told the board, commercial use of the reserves conflicted with their preservation for scenic and historic reasons. Yet, according to Stokes, Milroy, and Melbourne, the rates arrears on the Waikaremoana reserves were not finally remitted until 1986.⁵⁴³

Use and development of the reserves continues to be tightly controlled, as Desmond Renata told us:

Our ability to use the reserves is restricted. You can’t get over the reserves unless you have a boat. You can’t build on the reserves, you can’t even have vegetable gardens there. I can’t go and catch a trout unless I have a piece of paper, or a permit to go and shoot something. This was once just the way of life.⁵⁴⁴

In sum, when the park was first formed in 1954 the National Parks Authority had already recommended that the Waikaremoana reserves be acquired for the park. From then until the present, the Crown and park management have ensured that Ngati Ruapani have had almost no capacity to enjoy the use of their land, still less develop it. There is no better example of Maori land in Te Urewera being treated as virtual national park.

540. Ibid, p 500; Tuhoe-Waikaremoana Maori Trust Board, submission to Minister of Maori Affairs, 18 February 1973 (Innes, supporting papers to ‘Waikaremoana “Purchase Reserves”’ (doc A117(d)), p 257)

541. Innes, ‘Waikaremoana “Purchase Reserves”’ (doc A117), pp 33–34

542. Urewera National Park Board, minutes, 11 March 1976 (Edwards, ‘Te Urewera National Park’ (doc L12), p 94)

543. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 86

544. Desmond Renata, brief of evidence, 22 December 2004 (doc 124), p 6

16.6.2.4 Conclusion

The Crown has taken a close interest in controlling Maori land use and development in Te Urewera, especially in and around Te Urewera National Park. The Crown's reasons for doing so are underpinned by its forest protection policy, which in turn reflects the interests of Bay of Plenty and Hawkes Bay farming communities. The Crown has protected those communities as a matter of national importance. It has not seen protecting the economically marginal communities of Te Urewera as similarly important.

The establishment of the national park heightened the Crown's interest in controlling Maori land use and development. As Richard Boast states, the park is 'the dominant tenurial and political reality of Te Urewera'.⁵⁴⁵ The park's establishment embodied and gave a specific shape to the Crown's forest preservation policies. The park's governing legislation, and Crown policy, have ensured that the park's management and administration is dedicated to furthering these preservationist policies, and to providing public access to their park for recreation. The economic needs of Maori communities have been seen as peripheral to – and sometimes incompatible with – those purposes. Worse, this has meant that park management before the 1980s saw Maori communities trying to live on their own lands as the 'Maori problem' – one that presented them with 'special difficulties'.⁵⁴⁶

Before the 1980s, the default policy position of the Crown and of park management was that virtually any and all Maori land in and around the park should be acquired. The Crown has not succeeded, however, in purchasing substantial areas other than Manuoha and Paharakeke. The Crown suggested to us that its attempts to purchase land therefore had a minimal impact. We, however, concur with Brad Coombes' reply to Crown counsel on this point: the Crown's efforts to purchase land 'had a lasting impact upon the relationships that could have developed there. These were issues that dominated for a very long time when other issues should perhaps have had equal attention'.⁵⁴⁷

This is not a question of hindsight. As we noted at the beginning of this section, the Under-Secretary for Maori Affairs, Tipi Ropiha, advised his Minister in 1950 that the Crown needed to devise a comprehensive policy that balanced forest protection with the need for the peoples of Te Urewera to retain their small remaining pieces of ancestral land, and to be able to obtain some kind of economic return from it. It was clearly not beyond the capacity of Governments to have devised solutions, in partnership with Maori, from the 1950s to the 1970s. Instead, protection forests dominated policy making, as they did the 'public opinion' of low-lying landowners, and Maori interests always took second place. At a time when appropriate solutions could have been devised, planned, and implemented, as Ropiha had suggested, the predominant official belief was that Maori would eventually have to sell their land to the Crown and move away from the park.

545. Boast, 'The Crown and Te Urewera in the 20th Century' (doc A109), p 245

546. Bassett and Kay, 'Ruatahuna' (doc A20), pp 210–211; Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 494–495

547. Brad Coombes, under cross-examination by Crown counsel, Rangiahua Marae, Frasertown, 2 December 2004 (transcript 4.12, pp 226–227)

The team of Ropiha (Under-Secretary) and Corbett (Minister) saw a relaxation of milling restrictions at the very inception of the park, as Ropiha's reasoning bore fruit, and for a time it looked as if Maori would be able to log and develop their small remaining lands while the great majority of the district was kept as protection forests. Maungapohatu, for example, was approved for controlled milling (to be followed by farm development) in 1959. But it was not to be; from the late 1950s, after the massive expansion of the park in 1957, a harder line began to re-emerge. In 1960 and 1961, the Minister of Forests refused to agree to cutting rights on Manuoha, resulting ultimately in the purchase of an extra 38,000 acres for the park. From 1961, virtually the whole of Te Urewera was covered by a section 34 notice under the soil and rivers conservation legislation. While, as we will also discuss in chapter 18, it was still possible to get consent for controlled milling, 'many' applications were deterred after 1961 because it was known they would not be granted.

In 1953, Corbett had accepted the principle that Maori owners should not, in all fairness, be prevented from milling (and developing) land where doing so would not result in erosion and flooding. Then, the principle of compensating land-owners where milling *would* have harmful effects was written into the 1959 soil and water legislation. Against these principles stood two things: the lack of budget for a general compensation settlement if the notice was enforced over a wide area; and the public perception that land inside a national park should not be milled, and that all milling on Maori land in or adjacent to the national park was a danger to lower lying farmland. From around the time of the Rucroft petition in 1959, this public perception dominated Crown policy for the next two decades, despite Forest Service reservations as to its accuracy.

The emphasis shifted from allowing Maori to mill where it was safe (the Corbett policy) or compensating where it was not (the 1959 Act) to attempting to negotiate a mass-surrender of Maori land to the national park as cheaply as possible. The Crown made repeated efforts to acquire the Waikaremoana reserves, the bed of Lake Waikaremoana, and all the remaining Tuhoe lands, which their owners had said would never be sold. But, in reality, the Crown lacked the funds or the political will for large-scale purchases. It was cheaper and easier to stop people from using their land than to buy it. The completed purchase of Manuoha and Paharakeke in 1961 was an exception for that reason.

The shift from a purchase to a lease of the lakebed in the late 1960s was a sign of things to come. In the 1970s and early 1980s, the Crown negotiated to obtain all Tuhoe's forest lands for the park, on a new basis of long-term (perpetual) lease or exchange. These long negotiations resulted in very little despite their importance to Tuhoe leaders, who feared for the survival of Tuhoe as Tuhoe if local communities died out, unable to make more economic use of their ancestral lands. While a relatively small amount of exotic forestry was established on Te Manawa o Tuhoe block, the complicated proposals for leasing land to the park in exchange for farm or forestry land went nowhere. Ultimately, Tuhoe were not convinced of the fairness of the proposals, or that they should relinquish yet more ancestral land (even in exchange for land elsewhere in their rohe). For the Crown's part, the cessation

of logging on Maori land in the 1970s meant that it no longer needed to persevere. As the commissioner of Crown lands stated in 1984, Tuhoë lands were, ‘when all is said and done, protected as virtual national park’.

The most egregious example of the Crown’s tactics is the long campaign to acquire the Waikaremoana reserves from their Ngati Ruapani owners. These efforts ignored the fact that the Crown’s acquisition of the four southern blocks and of large swathes of the Waipaoa block, and its broken promises in the course of the UCS, were directly responsible for rendering Ngati Ruapani virtually landless. The Maori owners’ ability to make any use or obtain any economic return from these lands – their last lands – was prevented by the Crown from the park’s inception in 1954 until they were finally converted into section 439 reservations in 1972. That the owners successfully resisted outright alienation for so many years and under considerable pressure is a testimony to the great value that they placed on these final pieces of their ancestral Waikaremoana lands.

The history of the lakebed has a different significance for the issues considered in this chapter. There, the Maori owners’ long and determined resistance won them a significant victory in 1971. The key here was the lowering of the lake level for hydroelectricity purposes, creating a permanent ring of exposed (dry) Maori land around the whole of the lake. In the face of their refusal to sell, and also the fact that they could deny public access across this land to their lake if they chose, the Crown finally accepted their demand for a lease and annual rental payments. But these were only backdated to 1967 when they should have been backdated to 1954, the year in which the Crown both accepted Maori ownership of the lake (by not lodging a further appeal) and included the lake inside its boundaries as the centrepiece of the national park. In this instance, the park has resulted in Maori obtaining a return on their ‘asset’ for the past 45 years, since 1967.

16.6.3 What economic opportunities has the park presented to the peoples of Te Urewera?

16.6.3.1 Introduction

In the preceding section, we considered the degree to which the creation and management of the national park constrained the economic opportunities available to those Maori communities which still owned land inside or adjacent to its borders. Now, we examine the converse question of whether the park created or facilitated new economic opportunities for these local people. As we have discussed above, the overriding ethos of New Zealand’s national parks – as places set apart, to which people may come as visitors but where they do not stay – means that they do not readily lend themselves to that kind of economic opportunity. This is particularly true of Te Urewera National Park, which appears to have become synonymous with ‘wilderness’ in the eyes of many visitors and park administrators. But, for the peoples of Te Urewera, the park lies in the middle of their turangawaewae. They do not see it as a wilderness at all, but as the place in which they live and from which they need to be able to derive an income.

The peoples of Te Urewera have furthermore had few other economic and employment prospects available to them since the park’s creation. We have

discussed in a previous chapter how little land remained in Maori ownership by the end of the consolidation scheme, and in this chapter explored how the presence of the park constrained economic use of the remaining lands. The difficult economic situation of Te Urewera peoples was compounded by the decline of the forestry industry from the 1970s and its corporatisation in the 1980s, which resulted in widespread unemployment. The four farm development schemes, too, had run into significant trouble by the 1950s and offered limited support to local communities thereafter (see chapter 18). A full discussion of employment opportunities in the region, and of the economic straits to which the people had been reduced in the final quarter of the twentieth century, is the subject of a later chapter in this report. Here, we are concerned with the relatively limited question of employment or other economic opportunities created by the presence of a park, its visitors, and its staff. But we must bear in mind that this is only one part of a much larger story.

In this context, and while it is unlikely that anyone expected the national park to be a financial boon compared with other types of land use, whatever economic assistance the park could provide to the peoples of Te Urewera was vital. Inevitably, there has been a clash of values and interests; a national park, by its very nature, is not intended to make a great deal of money. The view of many Te Urewera peoples is that a better balance needs to be struck between conservation and social (including economic) values. In the words of Te Wharehuia Milroy and Hirini Melbourne,

Te Urewera people want to be able to get on with their lives in their own way. They need to be able to maintain viable communities in Te Urewera, including local employment, so that migrant kin still have something to come home to. They do not want to be restrained by excessive bureaucratic restrictions, but do recognise the need to provide protection mechanisms for the indigenous forest resource. It is just as valid to argue that Crown policy in Te Urewera forests should include adequate protection mechanisms to ensure the preservation of Te Urewera communities and acknowledge their traditional relationships with their forest environment.⁵⁴⁸

In their 1986 report to the Government, Stokes, Milroy, and Melbourne put forward a similar view:

An overriding concern in management of indigenous forests on Crown lands which lie at the back doors of [Te Urewera] communities should be the welfare of people who live there, obtain their living there and whose social and cultural well-being is closely bound to Te Urewera forests. Protection and preservation of the indigenous forest resource should not be achieved to the detriment of the human communities of Te Urewera.⁵⁴⁹

548. Milroy and Melbourne, 'Te Roi o te Whenua' (doc A33), pp 322–323

549. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 366

Economic opportunity in the park exists either through participation in the work of running the park, or through conducting commercial business in it. The peoples of Te Urewera contend that they have not been adequately involved or supported in either. In their view, the park has instead been a further impediment in a district where economic options were already few.

Clearly, though, and as the Crown has cautioned, in assessing how the national park (and Crown policy related to it) has impacted on the economic well-being of Te Urewera peoples, we will need to account for a range of factors, such as:

- ▶ the situation they were in when the park was first set up;
- ▶ the employment opportunities available in the wider area (which will be addressed in a later chapter);
- ▶ the capacity of local people to set up commercial enterprises in, and to derive income from, the park;
- ▶ the nature and accessibility of the park itself; and
- ▶ the nature of the tourism industry associated with Te Urewera National Park in particular, and national parks in general.

As Murton stressed:

Caution needs to be to the fore in assessing the economic impact of the national park, particularly with reference to Crown actions or omissions. Yes, policy and management until recently has been constraining, but other factors, such as remoteness, may have been just as significant in limiting the number of visitors and the need for facilities at places like Ruatahuna.⁵⁵⁰

Here, too, the Government's failure to build the promised roads (see chapter 14) has had long-term consequences. Murton added to his statement above: 'Of course, if the roads promised under the Urewera consolidation scheme had been built, the situation for mass and overseas tourism, in distinction from eco-adventure tourism, may have been very different.'⁵⁵¹

It is with this wider context in mind that we consider, first, commercial use of the park by Te Urewera peoples and, secondly, their employment within it.

16.6.3.2 Commercial uses of the park

Tourism presents one of few economic uses largely compatible with the park's conservation values and the need for Maori to make a living.⁵⁵² But Brad Coombes' research suggests that the park administration has been 'ambivalent' about Maori and tourism.⁵⁵³ While the potential for Maori involvement in tourism was identified early on, Crown officials and park administrators were initially of the view that Maori communities in and around the park were destined to move elsewhere. Even where it has been recognised that Maori would continue to live alongside

550. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 970

551. Ibid

552. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 88

553. Ibid, pp 549, 559

the park and needed to derive some income from it, park and Government officials have struggled to accommodate commercial activity within the national park framework, and to reconcile it with ideas about Te Urewera as a 'wilderness' landscape.

It is telling that after a deputation from the National Parks Authority visited Te Urewera in 1966, one member, FR Callaghan, considered Tuhoe's role in the park under the heading 'Maori problems'. He recognised Te Urewera as the only park 'which has substantial numbers of Maoris living in enclosed areas close to its boundaries', but clearly saw little future for those communities. He thought the Tuhoe community at Ruatahuna, for example, would dwindle to some six families after milling wound up. In the meantime, however, he thought some use of their 'traditions and skills' should be made, as they might 'display some of their customs to tourist parties passing through the Park in buses', albeit 'on a limited scale, infrequently, with dignity and in a manner which in no way detracts from real meaning and purpose of such functions'. Their 'six or seven meeting houses' should also be 'kept in order and properly preserved'.⁵⁵⁴ The authority chairperson, Director-General of Lands RJ MacLachlan, gave lukewarm support to this proposal, noting that the authority did not want to see the peoples of Te Urewera exploited.⁵⁵⁵

The potential of Te Urewera, and Ruatahuna in particular, for tourism development was also highlighted by a visiting American Fulbright scholar, Professor Wilcox, in 1972. After travelling through Te Urewera, Professor Wilcox proposed a circular, tourist route, or 'Maori Ara', from Rotorua to Wairoa, Gisborne, Whakatane, and back to Rotorua. He was particularly interested in Ruatahuna, where he felt a combination of 'tribal effort and government' could make a big difference. Observing Ruatahuna's location at the trailhead of the park and commenting that the community was at a 'critical economic crossroads', which it clearly was with the impending closure of Fletcher's mill at Ruatahuna, Wilcox proposed that a study be done to determine whether the area could be developed as a cultural centre 'to sustain Maori customs' and for tourism. He made specific recommendations for the types of commercial activities and facilities that could be developed: horse pack trips from Ruatahuna, 'Maori'-style accommodation for visitors, a tourist centre, and activities involving interaction between local people and tourists, such as the sharing of skills and knowledge relating to the bush.⁵⁵⁶

The potential for tourism ventures and cultural centres that capitalised on close proximity to the park continued to be discussed in the 1980s. In 1983, a member of the East Coast National Parks and Reserves Board proposed setting up a Maori educational and outdoors centre at Minginui on what he described as 'the fringe' of the national park. The proposal referred to Minginui residents' fears of a loss of

554. FR Callaghan to MacLachlan, 7 November 1966 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 88–89)

555. RJ MacLachlan to chairman, Urewera National Park Board, 8 December 1966 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 89)

556. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 90–91

jobs and community disintegration when indigenous logging was phased out in Whirinaki. It described a broad section of Minginui residents as having a 'bigoted anti-National Park attitude', and suggested that the centre would 'develop the pupils' appreciation of the NZ National park systems' and help them to overcome the 'stumbling block' that prevented them from 'cooperating with conservation groups'. Notwithstanding the assumption that it was Maori who were 'bigotted' for failing to fit in with the National Park ethos, the proposal contained some reasonably promising suggestions for local employment: 'Courses should be run entirely by Maori instructors with strong emphasis on Maori language and Maori mythology', and should be aimed at 'Maori pupils from throughout New Zealand'.⁵⁵⁷

However, the proposed centre was thoroughly rejected by the Minginui community as it was part of a broader proposal, which included the rationalisation of park boundaries to take in some of the Whirinaki State Forest. Minginui residents at the time were almost unanimously immersed in a struggle against an environmental campaign to end native logging in the Whirinaki forest, and they feared that the proposed change to park boundaries would lead to job losses and hunting restrictions.⁵⁵⁸ As a result, the proposals for boundary rationalisation and the centre were quietly shelved.

Stokes, Milroy, and Melbourne identified a range of ways that Te Urewera peoples could benefit more greatly, and be more involved, in commercial activities relating to the park. Like others before them, they noted that there was great potential for using marae to accommodate visitors and for educational and other services. This was on the proviso, they said, that these enterprises were run by local people, who could help to ensure that marae were treated as living communities, not 'museums'.⁵⁵⁹ The general manager of the Department of Tourism and Publicity similarly noted in 1985 that potential existed in Te Urewera for 'further development of Maori tourism in marae visits, hunting and horse trekking'.⁵⁶⁰

The idea of drawing on culture and people's day-to-day lives to create commercial tourism experiences was clearly not without problems. Tuhoe representative on the park board, Tama Nikora, described the suggestion that marae be used for tourist service as 'too sensitive a matter for comment'.⁵⁶¹ And, notwithstanding the recommendations they made in their 1986 report, Stokes, Milroy, and Melbourne commented that Te Urewera peoples may adversely react to their culture being

557. Dr JF Findlay, 'A Maori Educational Centre at Minginui', attachment to EG Wilcox, chairman, East Coast National Parks and Reserves Board, Gisborne, to district officer, Department of Maori Affairs, Rotorua, 13 April 1983 (Coombes, supporting papers to 'Preserving a "Great National Playing Area"' (doc A121(a)), pp 144-145)

558. Hutton and Neumann, 'Ngati Whare and the Crown' (doc A28), pp 691-694; Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 197

559. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 361

560. BJ Brown, for general manager, Tourism and Publicity Department, to commissioner of Crown lands, Hamilton, 'Urewera-Raukumara Land Use Study', 15 April 1985 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 91)

561. Nikora to Stokes, 21 April 1986 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 91-92)

used to generate profit. ‘Maori culture and tradition is not a saleable commodity’, they wrote, but they agreed a koha, or donation, was sometimes appropriate.⁵⁶²

Overall, though, we agree with the likes of Stokes et al, that potential exists for tourism development in Te Urewera, which, provided it is done well and led by local people, could help to sustain Te Urewera communities. Like many of the commentators from the 1960s to the 1980s, we consider that tourist development was an important opportunity for local Te Urewera communities to derive economic benefit from the park. And following the decline of the forestry industry in the 1970s, and the loss of employment during corporatisation in the 1980s, it became increasingly important that Te Urewera peoples were able to benefit from it.

Outside of the park’s main base at Waikaremoana, though, the often cited potential for tourism has gone largely unrealised.⁵⁶³ Areas like Waimana, Ruatoki, and Ruatahuna, where the majority of Tuhoe people live, have struggled to derive economic benefit from this kind of use of the park. The commentary of the 1960s and 1970s about Ruatahuna’s potential for tourist development, for example, is in sharp contrast to how Stokes et al described the town in 1986:

Large numbers of visitors pass through Ruatahuna and some stop at the store or get petrol. Occasionally they stay at a motel. In this part of the Park the bush scenery is something viewed from a car in passing and there appears little to attract the visitor to stay in Ruatahuna Township.⁵⁶⁴

A study of Ruatahuna in 1987 found that just 20 per cent of people of working age had permanent, full-time jobs. Forty-four per cent were unemployed, 26 per cent were in part-time or short-term employment, and the remaining 10 per cent were dependent on a benefit. Of those who were working, 90 per cent were dissatisfied with their employment situation.⁵⁶⁵ Similarly, in Ruatoki, which has the largest Tuhoe population of communities in the inquiry district, the unemployment rate in 1981 was 29 per cent.⁵⁶⁶

A lack of basic infrastructure has almost certainly contributed to the lack of tourism development. In 1968–69, the chief ranger at Aniwanuiwa had commented on the potential of towns along state highway 38 (like Ruatahuna) for tourism, reporting that ‘the future of this park from the public usage point of view is married firmly to the highway’.⁵⁶⁷ The poor state of the (unsealed) highway, which

562. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 360

563. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 32 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1398)

564. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 205

565. Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), pp 570–571

566. Calculated from Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 126.

567. W Sander, chief ranger, to chairman, Urewera National Park Board, Hamilton, ‘Notes for Annual Report, 1968–69’, 14 April 1969 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 202)

linked Ruatahuna with Murupara in one direction and Waikaremoana-Tuai in the other, was highlighted in a submission to the royal commission on social policy in 1987.⁵⁶⁸ It was raised again in 1991, when residents of Te Whaiti, Minginui, Ngaputahi, and Ruatahuna sent a petition calling for urgent attention to address the ‘dangerous state’ of the still unsealed highway, which they said was ‘badly potholed and largely surfaced by clay and mud’.⁵⁶⁹ The earlier (1987) submission also referred to a lack of a rubbish dump and sewerage system: ‘Our rubbish is just dumped anywhere along the roads, is an awful eyesore to visitors and residents’. Phone services and television reception were also reported to be poor.⁵⁷⁰ Problems with roads and water supplies, and a lack of refuse disposal were raised again in a meeting of Tuhoe representatives and council in 2002.⁵⁷¹ Clearly problems with roads and basic services would not have helped with attracting tourists to the area. In evidence to this Tribunal, Korotau Basil Tamiana commented that the problems with State Highway 38 had ‘taken Ruatahuna off the tourism map’.⁵⁷²

We note, too, Professor Murton’s general observation that the failure to build the promised roads in Te Urewera (see chapter 14) dictated the nature of the tourism that could take place in the park.⁵⁷³ The ‘limited use of Te Urewera National Park by tourists’ dictated the result for the ‘gateway communities’ – Murupara, Ruatahuna, Onepoto-Tuai, and Waimana – which ‘have not seen a growth in tourist-oriented facilities, such as are found in similar communities in other countries’.⁵⁷⁴ And yet, for many, this is what has saved the park’s value as remote wilderness.

Even if suitable infrastructure had been in place, however, Te Urewera communities have lacked the resources needed to set up commercial operations in the park. The legacy of a loss of land, and the loss of income and widespread unemployment accompanying the decline of the forestry industry, has meant that most local people have simply not had spare financial capital to invest in setting up a tourism venture. Te Urewera communities were also not necessarily well equipped with the kinds of business and administration skills associated with setting up a commercial enterprise – the main forms of employment in the area have historically been forestry, farming, and subsistence activities like hunting. In an address to the Minister of Maori Affairs, Lands, and Forestry in 1971, the chairman of the Tuhoe Maori Trust Board noted the Trust’s desire to establish tourist facilities at Ruatahuna, and investigate the possibility of package tours and trail rides, but identified a ‘lack of suitable personnel to manage tourists’ as one of the main

568. ‘Submission to the Royal Commission on Social Policy by Ngai Tuhoe’, 1987 (Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), p 567)

569. Petition, M Sexton and 247 others, to branch manager, Works Consultancy Services, 24 July 1991 (Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), pp 569–570)

570. ‘Submission to the Royal Commission on Social Policy by Ngai Tuhoe’, 1987 (Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), p 567)

571. Tuawhenua Research Team, ‘Te Manawa o te Ika, Part Two’ (doc D2), p 568

572. Korotau Basil Tamiana, brief of evidence (in English), 21 June 2004 (doc E11), p 7

573. Murton, ‘The Crown and the Peoples of Te Urewera’ (doc H12), p 970

574. *Ibid*

impediments to developing tourism at Ruatahuna.⁵⁷⁵ Not surprisingly, then, the number of applications that local people have made for commercial operations in the park has been very small, and the operations have tended to be modest and small-scale (discussed below).

National and park board policy, and how policy has been applied, has also constrained commercial and tourism development in the park. We begin below with a brief overview of park policy in relation to concessions, and then examine how this policy was applied to the commercial enterprises about which we received evidence.

National policy relating to commercial concessions in the park became more prescriptive over time, but this appears to be partly because it came to contemplate a wider range of commercial activities. The first *General Policy for National Parks*, in 1964, was concerned with providing ‘essential services’, primarily accommodation. As in the National Parks Act, commercial activities appear not to have been much considered, although the policy did also refer to shopping facilities. Although the policy stated that ‘licences’ should be strictly controlled, the criteria for obtaining them were not particularly onerous. In 1968, provisions for commercial operations in the park were expanded to include the need for operators to:

- ▶ have had previous business experience;
- ▶ provide evidence from a professional consultant that their operations would be financially viable;
- ▶ meet acceptable standards of public service; and
- ▶ demonstrate that their activities would not compromise ‘park values’.

A minimal levy of 1.25 per cent of gross turnover, ranging to a maximum of 5 per cent, was also introduced.⁵⁷⁶ A review in 1970 resulted in the added requirement that public applications had to be invited for new concessions. In 1980, it was noted in the concessions policy that consideration would be given to applicants who would deliver the best service to the public at the most reasonable price, and to applicants who have ‘financial resources and managerial competence’.⁵⁷⁷

The concessions policies of the park board were similarly tightened over time, but also gave increasing recognition to the role of Te Urewera peoples in the park. Table 16.4 provides a summary of the park management policies and objectives relating to commercial concessions, from 1976 to 2003.

Tuhoe have sometimes expressed frustration over the bureaucracy of the concessions process. In a 1980 submission to the East Coast National Parks and Reserves Board, the Tuhoe-Waikaremoana Maori Trust Board, while expressing overall support for the commercial concessions policy that had been proposed as

575. S White, chairman, Tuhoe Maori Trust Board, to Duncan MacIntyre, Minister of Maori and Island Affairs, Lands, Forestry, and Valuation, ‘Nga Take a Ngai Tuhoe’, Ruatahuna, 23 April 1971 (Bassett and Kay, supporting papers to ‘Ruatahuna’ (doc A20(c)), p 305)

576. Chairman, National Parks Authority, to all national park board chairmen, ‘Suggested Revised Criteria and Policy for Granting of Concessions in National Parks’, 7 August 1968; National Parks Authority, ‘Concessions Policy in New Zealand National Parks’, November 1969 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 92–93)

577. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 92–94

Year	Reference	Policy or objective
1976		'[P]rovided there is adequate protection for the resource and that reasonable provision for these facilities cannot be made outside the Park, the Board may consider it desirable to grant a "concession" to operate a commercial enterprise in the Park.' The selection of a concessionaire is made only after the Board is convinced that he can operate to its full satisfaction, both financially and by the provision of an adequate and courteous service to the public.
1989	Policy 4.5.1	Existing licensed commercial concessions (Te Rehuwai Safaris Limited and DR and A Rothschild) will be permitted to continue operating. The Te Rehuwai Safaris' licence will be in accord with the NPRA guidelines on concessions in national parks.
	Policy 4.5.2	Further low-key commercial operations and expansion of existing operations will be permitted only if they are compatible with park values and enhance the use and enjoyment of the park by visitors.
	Policy 4.5.3	Encouragement will be given to concessions which provide authentic Tuhoe cultural experience compatible with the management philosophy of the park.
2003	Objective 9.1.1(a)	Concessions will be considered where the activity is undertaken in a manner compatible with the preservation of natural archaeological and historic values, and in a way that does not compromise the use and enjoyment of the park by other users.
	Policy 9.1.2(b)	To assess applications for concessions having regard to, (but not limited to) the following . . . ii. potential adverse effects of the activity, facility of structure on the following (a–g), and the means by which these effects may be avoided, remedied or mitigated . . . c) historic and archaeological sites; d) sites of significance to tangata whenua . . . v) results of public consultation and advice provided by tangata whenua . . .
	Policy 9.1.2(h)	To encourage concessionaires to notify and consult with tangata whenua and affected parties when lodging an application for a concession and to notify the Department of the initiatives they have taken in this regard.

Table 16.4: Policy and objectives relating to commercial concessions, Te Urewera National Park, 1976–2003

Sources: Urewera National Park Board, *Urewera National Park Management Plan, 1976* (Hamilton: Department of Lands and Survey, 1976), p 35; Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999* (Rotorua: Department of Conservation, 1989), p 72; Department of Conservation, *Te Urewera National Park Management Plan, East Coast Hawke's Bay Conservancy Management Planning Series 4* (Gisborne: Department of Conservation East Coast Hawke's Bay Conservancy, 2003), pp 127–130; Brad Coombes, 'Preserving a "Great National Play Area" – Conservation Conflicts and Contradictions in Te Urewera, 1954–2003' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), p 95

part of the draft park management plan, asked that the park board better coordinate its consideration of concessions relating to park and Trust-owned land. This, they said, would result in fairer terms and make the process easier for applicants. They noted: 'Although the bulk of an operation is on our land it seems that the Park strikes its charges over the whole operation.'⁵⁷⁸

Nonetheless, by the 1980s the idea of acquiring Maori land and relocating communities was gone. The park board had come to see itself – and its new management plan – as using concessions to 'give opportunity to indigenous people.'⁵⁷⁹ The ranger at Murupara observed in 1986, 'it is the policy of the National Park to assist the local communities in any way we can, especially in ventures such as this.'⁵⁸⁰ He was referring to a Waiohau application in that year for a concession to set up a guided walking or horse trek operation.⁵⁸¹ Potentially, therefore, a change in official attitudes and policies favoured an increase of tangata whenua commercial operations in the park; always provided that such operations were seen as compatible with the core value of minimal recreational impact on its authentic wilderness.

We now turn to examples of how national and park board policies were applied to specific commercial enterprises.

16.6.3.2.1 VENTURETREKS AND TE REHUWAI SAFARIS

In 1975, Venturetreks, a joint venture by the Tuhoe-Waikaremoana Maori Trust Board and private interests, proposed running guided tours down the Whakatane River with pack horses, camping at various locations within the national park. T B (Buddy) Nikora, secretary of the trust board, advocated for the project to the park board, on the grounds that 'every opportunity' to employ those living in the park's enclaves should be pursued.⁵⁸² However, the park board declined the application based on a 'policy principle' that commercial guided tours into the park should not be allowed.⁵⁸³ Coombes pointed out that this 'policy principle' was the park board's interpretation of policy rather than the letter of the policy set by the National Parks Authority itself. The authority did, though, later that year extend its policy opposing safari hunting on park land to opposing it on land 'adjacent

578. Tuhoe-Waikaremoana Maori Trust Board to East Coast National Parks and Reserves Board, submission on the draft Te Urewera National Park management plan, 5 July 1987 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 250)

579. J C Blount, chief ranger, to commissioner of Crown lands, Gisborne, 'Hunting and Fishing Concession – D Biggs', 12 May 1983 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 558)

580. K Atatu, ranger, to G Mitchell, ranger-in-charge, Murupara, 17 October 1986 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 558)

581. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 558

582. T B Nikora, secretary, Tuhoe-Waikaremoana Maori Trust Board, to secretary, Urewera National Park Board, 3 June 1975 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 530)

583. Secretary, Urewera National Park Board, to secretary, Tuhoe-Waikaremoana Maori Trust Board, 3 July 1975 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 531)

to' a national park, and it is possible the board was already aware of the authority's stricter stance. The park board's opposition came in spite of the secretary of the park board, LS Watt, acknowledging that the operation 'could probably have gone ahead' without the board's permission, by using the existing legal roadline for access through park land and that it had therefore been courteous of the Maori owners to apply for a consent at all.⁵⁸⁴

Venturetreks submitted another application towards the end of 1975, and the board agreed to allow the company to operate on a trial basis for one season, noting that it would provide some employment.⁵⁸⁵ When agreeing to the application, the board made an interesting admission: it 'did not favour commercial activities within the Park unless they provided a necessary service to visitors *which the [Park] Board could not supply* and which at the same time did not conflict with the primary purpose of the preservation of the Park' (emphasis added).⁵⁸⁶ The trial was a success, proving, said Coombes, that 'commercial horse treks were viable and sustainable'.⁵⁸⁷

Before this trial had started, several Tuhoe members based at Ruatahuna formed a second horse-trek company, Te Rehuwai Safaris Limited. This led to some local tension, and eventually, in June 1976, the park board accepted Te Rehuwai Safaris as the sole operator of guided tours within the park and granted it a trial permit of 12 months (despite the Venturetreks trial having already proved to be a success).⁵⁸⁸ Te Rehuwai was restricted in where it could operate and the type of tour it could conduct (horses carrying in supplies were acceptable; horses carrying people were not), and the board applied a levy of \$1 per client.

The decision to grant a permit to Te Rehuwai Safaris reflected, said the chief ranger at Aniwanui, 'the policy set out in the Management Plan aimed at trying to help the local people to obtain employment in the Park'.⁵⁸⁹ It appears also, however, to have been linked with attempts to negotiate a lease of the Maori-owned land within the park. In a meeting of the national park board in June 1976, when discussing the application from Te Rehuwai Safaris, Tama Nikora noted that if it were declined, 'the owners might not be so ready to consider leasing their land for inclusion in the Park'. In another meeting of the park board, in September 1976, the other Tuhoe member of the board, John Rangihau, asked that the Te Rehuwai application be treated with 'the utmost sympathy'. He observed that whereas Tuhoe people had traditionally been 'cooperative' in relation to the park:

584. NS Coad, Director-General of Lands and chairman, National Parks Authority, to all commissioners of Crown lands and national park board chairmen, 11 August 1975 (doc A133), p 531

585. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 532

586. Urewera National Park Board, minutes, 11 September 1975 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 532)

587. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 534

588. Urewera National Park Board, minutes, 10 June 1976 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 535–536)

589. Urewera National Park Board, minutes, 10 June 1976 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 535–536)

now many of their younger people were being influenced by outside and more sophisticated groups. They wanted to break away from existing land negotiations and were becoming militant in their attitude over matters related to the Park and the lands in which they had an interest. It was necessary therefore that the Board should show sympathy towards the aim of the applicants and try to help them to understand the reasons the Board might not be able to agree fully to their proposals.⁵⁹⁰

In a strongly worded letter in October 1976, Tama Nikora told the board (of which he was a member) that it was wrongly trying to stymie commercial initiative as a lever to force Maori out of the park. Mr Nikora stated that it was 'clear' that the board wished to acquire the 'enclaves' and it was also clear that the board had not properly declared its agenda in this. He argued that it was 'incorrect for the board to unfairly restrict rights of user over these lands or to employ indirect tactics to achieve its objectives at the cost of those landowners'. In his view, the restrictive terms of the concession to Te Rehuwai Safaris were 'obnoxious' and the board was employing 'blunt tactics as might otherwise be appropriate in the army or police force'. He pointed out that if Tuhoe had been accorded proper access to their lands at the time of the consolidation scheme then there would be no basis for restricting the company's operations, as the guided tours were, after all, conducted mostly on Maori-owned lands.⁵⁹¹

After further complaints, the park board decided to waive the fee for a year. However, the chairman stated it had already given Tuhoe 'every possible advantage' by denying the proposals of other companies and thereby establishing a monopoly (although discussions from the time make it clear that the denial of other proposals was not for the sake of giving Tuhoe an advantage, but because the park wanted to limit the amount of commercial activity).⁵⁹²

Having received positive reviews from the public and park staff, Te Rehuwai Safaris applied for a five-year concession but this was declined. Another one-year concession was given, making long-term planning and employment of staff impossible. In 1980, the board decided to reintroduce the \$1 client levy.⁵⁹³

In 1983, the company again applied for an extension of the terms of its concessions, stating that its new proposal would require access across the park, as well as allowance for hunting and fishing and minor horse riding treks (up until this point only pack horses had been allowed).⁵⁹⁴ The chief ranger, J C Blount, noted that the

590. Urewera National Park Board, minutes, 9 September 1976 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 537)

591. Tama Nikora, Urewera National Park Board, to secretary, Urewera National Park Board, 'Te Rehuwai Safaris application', 29 October 1976 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), pp 142-143)

592. R M Velvin, commissioner of Crown lands, to Davenport Buxton Gibson McHardy and Partners, Auckland, 16 December 1976 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 544)

593. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 547-548

594. *Ibid*, pp 550-551

park board's acceptance of this proposal depended on the management plan: the board could not prevent Maori from accessing their land but whether this permitted 'the use and commercial exploitation of their land through their clients using horses is another matter'.⁵⁹⁵ Following Blount's comments, and criticisms by pony clubs who complained that Maori were receiving preferential treatment, both the commissioner of Crown lands at Gisborne and the district solicitor agreed that the management plan did not give Maori landowners the right to take clients through the park on horseback.⁵⁹⁶

Horse treks were not accommodated within the new management plan and when Te Rehuwai Safaris made a similar application in 1986, this aspect of the proposal was again refused. However, the venture (with pack horses) was granted a five-year concession and the proposal for fishing rights was accepted.⁵⁹⁷ A Department of Lands and Survey report in 1986 referred to this longer concession:

The concession is generally in harmony with management objectives and Park values. With the operations being based on Maori land, the Park is principally used only for access to 'traditional' routes with a minimum effect on Park resources and other Park users.⁵⁹⁸

It had taken park officials a decade to come to this conclusion.

In 1986, Stokes, Milroy, and Melbourne described Te Rehuwai as a 'prototype' for tourism in Te Urewera, noting that it not only employed Tuhoe people but was owned and controlled by Tuhoe.⁵⁹⁹ And, as Rongonui Tahi explained to this Tribunal, the business has endured, although scaled down since the 1990s.⁶⁰⁰

The degree of control exercised over Te Rehuwai, particularly the series of one-year concessions, and particularly in light of it operating mostly on Maori-owned land, has, however, again caused considerable resentment among landowners trying to derive some income from their land. They see, too, a double standard as operating. The Tribunal was told:

We sought long term concessions from the National Park for access, but were only allowed yearly concessions. 99% of our operations were carried out on Maori land, 1% on Crown land to do with access, yet we were required to apply for a concession and to pay for it. At the same time, the NZFS and National Park did not consider they

595. JC Blount, chief ranger, to commissioner of Crown lands, Gisborne, 'Te Rehuwai Safaris – Application for Extension to Licence', 19 September 1983 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 552)

596. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 552–554

597. Ibid, pp 555–556

598. Department of Lands and Survey, *Urewera National Park Management Plan, 1986, Draft* (Hamilton: Department of Lands and Survey for East Coast National Parks and Reserves Board, 1986), pp 126–127 (Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 207)

599. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 207

600. Rongonui Tahi, brief of evidence, 22 June 2004 (doc E27), p 9

should do the same for the access over and use of our lands by their staff and clients. We felt though we had no choice but to accept the requirements.⁶⁰¹

16.6.3.2.2 ADVENTURE TOURISM

As we noted above, the circumstances of Te Urewera limited or shaped the kinds of tourism opportunities available to local Maori. In terms of infrastructure, the lack of roads prevented what Murton called ‘mass’ tourism, while encouraging adventure tourism. At the same time, local Maori communities lacked the business and financial infrastructure to take advantage of tourism-related concessions on any large or systematic scale. In some ways, this dovetailed well: small-scale trekking and hunting/fishing ventures coincided with what the 1989 park management plan referred to as ‘authentic’ Tuhoe cultural experiences. Before the 1980s, policy (both central government and park board) was to acquire Maori land and move the people out altogether. From the 1980s on, however, it was accepted that Tuhoe would remain living inside or adjacent to the park, and that – as part of the park’s landscape, as it were – encouragement would be given to concessions that provided an ‘authentic’ Tuhoe experience compatible with the core wilderness values of the park. Pony club objections to ‘discrimination’ in favour of Tuhoe were still considered pertinent in the early 1980s, but by the end of the decade official thinking had moved on.

Did this result in more tourism concessions for local ventures? The documentary evidence is sketchy on this point. In 1986, in response to the Stokes, Milroy, and Melbourne report, park staff had commented that ‘the park supports the Te Rehuwai concept and would support other locally based enterprises.’⁶⁰² In Coombes’ view, the evidence does not support such a statement.⁶⁰³ When the chief ranger wrote a report in 1983, he only mentioned two operational concessions at that time: Te Rehuwai Safaris (see above); and Ivan White’s, who conducted ‘horse-supported’ safaris in the Waiau Valley. Mr White was allowed to use four horses for cartage purposes, he was not allowed to advertise, his route was restricted, and he had to pay \$1 per client; similar terms to that set for Te Rehuwai Safaris.⁶⁰⁴

According to Coombes, the new management plan in the late 1980s, with its stated policy of encouraging concessions for Tuhoe cultural experiences, ‘inspired several Maori and Pakeha applications for guided walking and hunting.’⁶⁰⁵ These included proposals from Waiohau (which park staff supported) and from Tuai (which was not supported). But Coombes’ report did not cover the fate of these applications or whether concessions were granted for other safari enterprises in the 1990s.⁶⁰⁶ As far as we can tell from the documentary and oral evidence, Te

601. Rongonui Tahī, brief of evidence, 22 June 2004 (doc E27), p 8

602. ‘Comments of Ranger Staff on Stokes Report’, 2 May 1986 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 557)

603. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 557

604. *Ibid.*, p 558

605. *Ibid.*

606. *Ibid.*, pp 528–559

Rehuwai Safaris (and Ivan White) stand alone as having operated these kinds of ventures on any long-term basis. While there may be many reasons for this, including access to finance for starting up such enterprises, it is a disappointing conclusion to the new official willingness to promote such tangata whenua ventures in the park.

16.6.3.2.3 COMMERCIAL HUNTING AND AERIAL RECOVERY

The park had major implications for hunting. Recreational and subsistence hunting and the permit system related to it are discussed later in this chapter. Here we look primarily at what opportunities for commercial hunting existed in the park, and whether local people were able to make the most of them. Professor Murton commented that it was 'perhaps fortunate that introduced deer and possums became pests, and given the perennial shortages of money to mount sustained eradication programs, private [commercial and otherwise] hunting necessarily had to be permitted in the park.'⁶⁰⁷ Under the heading 'pests as resources', Murton suggested that this created 'synergies' between conservation and economic opportunities for Maori. These synergies, he argued, were not given their due weight when conservation authorities made decisions about how to eradicate or control 'pests.'⁶⁰⁸

The existence of the park put a very high value on pest control in Te Urewera, which might not otherwise have happened to the same extent; but eradication strategies took little or no account of how dependent local communities became on commercial hunting of these 'pests'. In part, this was because the Forest Service (and later DOC) was always short of money for pest control. Maori valued deer and pigs (in particular) as sources of food as well as for commercial hunting. Yet, from the preservationist perspective, these 'pests' did immense damage to the indigenous flora in the park. A vicious circle was created, where Maori obtained income partly because the goal was to eradicate pests, yet total eradication – or pest control by means other than hunting – might better serve the interests of preservation while conflicting directly with the interests of Maori. Key issues became whether poison should be used (which had many more dimensions than simply the economic), and whether local Maori communities should be preferred to outside hunters or trappers. In a subsequent chapter, we will consider environmental issues about how 'pests' were introduced, their effects on the forests of Te Urewera, and the claimants' concerns about the environmental and cultural dimensions of pest control. Here, we are concerned solely with the national park's impact on these 'pests' as an economic resource for the claimant communities.

We begin our discussion of these issues with the least 'useful' of the pests to Maori (because it was not a food resource): the possum. A national bounty system for possums was introduced before the creation of the park, in 1950, aimed at encouraging the hunting and trapping of pest species at times when, and in

607. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 969

608. *Ibid.*, p 953

remote locations where, such activities would otherwise be uneconomic.⁶⁰⁹ Despite some aspects of the scheme limiting the involvement of local people, such as the discouragement of (casual) weekend or holiday trapping, steadily increasing numbers of possum tokens were submitted, with the take in Te Urewera representing a large share of the national one.⁶¹⁰ When Te Urewera was declared a national park in 1954, restrictions were put on the use of guns, horses, and pig dogs, although it is unclear how extensively these conditions were enforced initially. After the Urewera National Park Board was formed in 1962, the minutes of one of its first meetings recorded: 'Members agreed that since the Maoris had long been accustomed to hunting without permits in park areas adjacent to the lands in which they held interests, immediate insistence that they must apply for shooting permits could only cause much ill feeling.'⁶¹¹

Despite the amount of trapping activity, the Conservator of Forests observed that large deer and possum populations remained in the Waikaremoana area. The Noxious Animals Act 1956 transferred responsibility for 'controlling and eradicating noxious animals' to the New Zealand Forest Service. Significantly, section 3 of the Act allowed the Minister of Forests to 'declare that any specified species of noxious animals may not be hunted or killed' where they considered the hunting might interfere with studies or other work being done to control the pest. The Forest Service's first plan for animal control in Te Urewera, covering the period 1960 to 1965, determined that poisoning should begin. Although a range of groups were consulted in the lead-up to this plan, including Federated Farmers, the Travel and Holidays Association, Federated Mountain Clubs, and the New Zealand Deerstalkers' Association, there is no evidence of local Maori having been involved, nor of consideration of how poison-use would impact on their trapping and hunting activities.⁶¹² As Professor Murton noted, there was some limited employment of local Maori in ground-based poisoning, but none in the cheaper aerial drops that became predominant in the 1990s.⁶¹³

The importance of subsistence and commercial hunting for people in Te Urewera was emphasised in a letter to the commissioner of Crown lands in 1962. Responding to a request from the commissioner that he supply comments on a trip from Ruatahuna to Whakarae in the Waimana Valley, one MC Bollinger expressed support for the park's deer 'extermination policy', but noted that it could deprive Maori of an important source of income. He advised that the three families at Maungapohatu, many of the people at Ruatahuna, and those in the Waimana

609. G O'Halloran, chairman, report of the 'inter-departmental committee for the control of noxious animals', 1951 (Coombes, 'Making "Scenes of Nature and Sport"' (doc A121), p 333)

610. Acting secretary, Internal Affairs, to Director-General of Lands, 'Opossum Bounty Scheme', 27 November 1951 (Coombes, 'Making "Scenes of Nature and Sport"' (doc A121), p 334)

611. Urewera National Park Board, minutes, 14–15 March (Walzl, 'Waikaremoana' (doc A73), p 490)

612. Coombes, 'Making "Scenes of Nature and Sport"' (doc A121), pp 337–341

613. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 952

Valley, 'ha[d] come to depend on pork and venison, and the sale of deer skins as part of their livelihood.'⁶¹⁴

In his evidence in our inquiry, Jack Te Waara, who lived in Ruatahuna from 1959 and later moved to Uwhiarae, described hunting as an important source of income for his family and for many others. He later became a deer culler but found this waged work to be 'less lucrative.'⁶¹⁵ Like Mr Bollinger, Mr Te Waara was critical of the use of poison for pest control: 'The Crown could've encouraged employment here. Opossum and deer control programmes were still needed. . . . The Government chose to use poison instead. This killed many other animals. I remember seeing herds of pigs lying dead and poisoned.'⁶¹⁶

One piece of evidence suggests that the use of poison in the 1960s was not as effective as the bounty system, which had at least provided some income for local people. In a 1968 report about a trip he had recently made through Te Urewera National Park, Jack Lasenby commented: 'Removal of the bounty and light trappings and poisonings for skins since has allowed them to breed up again from Marau around to Hopuruahine.'⁶¹⁷

A lot of hunting and trapping activity took place on private land neighbouring the park, such as in Ruatahuna's hinterland bush, but much of it also occurred within the park.⁶¹⁸ In 1983–84, for example, 4,700 permits to hunt deer, and 580 permits to trap possums, were issued.

Possum trappers in Ruatahuna sought to make the most of their local resource, setting up Ruatahuna Fur and Games Products in 1979, with assistance from the 'Marae Enterprise Scheme' run by the Department of Maori Affairs. Murton recorded that in 1978–79, 40 pressed bales, or approximately 32,000 skins, were freighted out by the local storekeeper, and skins were eventually sold for export. The company did not last, but the possum skin industry continued through the efforts of self-employed trappers. In the late 1980s, over 200 people made a living from the sale of skins from Te Urewera.⁶¹⁹ According to Stokes, Milroy, and Melbourne in 1986, most people in Te Urewera hunted and trapped to supplement their food supplies or income, and almost all possum trapping was for commercial purposes (selling skins), and it was an important source of income.⁶²⁰

Tama Nikora, speaking on behalf of the Tuhoe-Waikaremoana Maori Trust Board, highlighted the importance of local people being able to benefit from pest control work at a meeting of the East Coast Parks and Reserves Board on 15–17 July 1987. He stated that while he was not making a case for employing Tuhoe 'on

614. MC Bollinger to commissioner of Crown lands, 11 January 1962 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 265)

615. Jack Te Piki Hemi Kanuehi Te Waara, brief of evidence, 21 June 2004 (doc E23(a)), p 2

616. *Ibid.*, p 4

617. Jack Lasenby, report on visit to Te Urewera National Park, 23–27 January 1968 (Walzl, 'Waikaremoana' (doc A73), p 494)

618. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 948–950

619. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 950

620. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 354

discriminatory grounds', they should be given every available opportunity to compete for the 'noxious resource', and identified Ruatoki, Ruatahuna, Waimana, and Waikaremoana as places where better possum control was needed.⁶²¹

DOC took over pest control in Te Urewera under the Conservation Act 1987, and pursued a policy of pest-extermination. Throughout the 1990s, various requests were made by local Maori groups for less use of 1080 (sodium monofluoroacetate), and aerial drops in particular, and more pest-control work for local people, through ground-control contracts and bounty systems or some other form of subsidised hunting. Importantly, a 1994 report by the Parliamentary Commissioner for the Environment recommended that continuing heavy reliance on 1080 was not advisable in the long term. The commissioner identified possum control through hunting contracts as a cost-effective alternative for 'accessible terrain'.⁶²² For 'areas of very difficult terrain and poor access', however, 'a more cost-effective control than aerial-1080 is not available at the present time'.⁶²³ Where it considered alternatives to 1080 at all over this period, DOC appears to have considered them impractical.⁶²⁴

While DOC still identifies 1080 as a necessary part of pest control in Te Urewera,⁶²⁵ its use has declined since the 1990s. This decline is part of a national DOC response to public concerns, and effective alternatives being identified (including ground-trapping). In Te Urewera, it appears at least in part to be a result of better dialogue between DOC and local Maori in the Waikaremoana sector of the park. Glenn Mitchell described a hui-a-hapu that the Waikaremoana Maori Committee and DOC arranged at Waimako Marae in 2002, and a subsequent series of hui, which led to an agreement to limit aerial 1080 drops in the Waikaremoana sector of the park to areas where it would be difficult for ground operators to gain access. He conceded that the programme 'proceeded with mixed blessings', but noted that a number of ground-based control contracts had also been made available to the Lake Waikaremoana Hapu Restoration Trust.⁶²⁶

This general approach to pest control, involving dialogue, compromise, and local work opportunities, was advocated by Tuhoe leader Aubrey Temara in 2003:

There are issues with the use of 1080, but if these issues were discussed properly, then I'm sure that there would be no more conflict . . . Control through hunting would

621. Tama Nikora, meeting of the East Coast Parks and Reserves Board, Wai-iti Marae, Ruatahuna, 15–17 July 1987 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 255)

622. Parliamentary commissioner for the environment, 'Summary of Findings: Possum Management in New Zealand', 1994 (Coombes, 'Making "Scenes of Nature and Sport"' (doc A121), p 410)

623. Ibid

624. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 953; Coombes, 'Making "Scenes of Nature and Sport"' (doc A121), pp 411–413

625. Peter Williamson, brief of evidence, 8 February 2005 (doc L10), p 36

626. Glenn Mitchell, brief of evidence, 7 February 2005 (doc L9), pp 19–20

be the preference where it is practical and effective . . . It's not always going to be practical and effective, so there'll remain a need for poisoning.⁶²⁷

Pest control has continued to represent a substantial proportion of work in the park, but to what degree Maori have benefited from pest control contracts through the Department of Conservation is unclear. The 1989 10-year park management plan notes that there were 54 full-time and 33 part-time possum trappers operating in the park – we do not know what proportion of these were Maori.⁶²⁸ In 2005, Peter Williamson, conservator for the region, noted that pest control was usually done by contract, via a tendering process that is based on ‘price tendered and contractor experience’, and that in the previous year, approximately \$924,000 had been spent on pest control in Te Urewera.⁶²⁹ While claimants have alleged that people from outside Te Urewera have monopolised these kinds of contracts, we have insufficient evidence to analyse the situation.

In addition to the use of ground and aerial poisons, the use of commercial helicopters for deer hunting was of significant concern to the claimants. In 1980, commercial helicopter operators were allowed to operate in some parts of the park for a trial period, for the purposes of culling animals. Subsequently, the park board and the Forest Service entered into a lengthy and tortuous process to formulate a new animal control plan and amend the existing management plan with as little public input as possible. Brad Coombes’ report set out the details.⁶³⁰ Maori were concerned not only at the threat to their livelihood within the park, but even more with the risk of trespass and poaching on their own land. Soon after the initial trial, rangers noticed an increase of unlicensed and thus illegal helicopter operations within the park. By 1982, 17 helicopters had been licensed, and operators took 135 live deer and 252 carcasses between March and May of that year (which the Forest Service described as ‘pathetic’).⁶³¹ Live deer capture pens were permitted within the park in 1986. Between 1984 and 1987, helicopter operations spread over an increasing area of the park, and there was a reduction in the times of the year when they were excluded.⁶³²

Local Maori voiced immediate concerns about the effects of helicopter operators in the park, concerns Coombes asserted have persisted since.⁶³³ For instance, a Forest Service staff member in Ruatahuna noted in 1980 that Maori in Ruatoki

627. Aubrey Temara, personal communication (Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), p 290

628. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 52 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1407)

629. Williams, brief of evidence (doc L10), p 36

630. Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), p 382; Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 130

631. J C Sutton, officer-in-charge, Ruatahuna, New Zealand Forest Service, ‘Environmental Period Report – Minginui District, 1.4.82–30.6.82’, 12 July 1982 (Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), p 389)

632. Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), pp 389, 390

633. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 131–132

were upset about the likelihood of aerial capture because it would compete with their own interests in capturing deer using horses and dogs. At a public meeting of the park board in Murupara in 1980, a Ruatahuna person ‘spoke of local resistance to helicopters and the threat to livelihood from lack of venison.’⁶³⁴ Coombes also argued that during the early to mid-1980s, there is no evidence that Maori were consulted when the board allowed helicopter usage to be extended throughout the park, and for aerial hunting and not just hunter transport and carcass recovery (as in the initial trial period). The expansion of helicopter operations required changes in the park’s management plan. On the advice (and with the consent) of the National Parks and Reserves Authority, the park board decided to alter the management plan in 1982, thus avoiding the need for a formal round of public consultation about the changes.⁶³⁵

In some cases, however, Tuhoe have also sought to use helicopters in the park. This is particularly true of those with land in and around the park who are seeking income from hunting. As Stokes et al noted, ‘local people see deer hunting, including use of helicopters, as one of the few ways they can obtain some income from their forests.’⁶³⁶ A deer unit established at Ruatahuna in 1986 used deer captured on Tuhoe Tuawhenua lands. Murton recorded that by 1990–91 there were 372 deer being run, and its velvet production was valued at \$22,400, while culled deer brought in \$3,000.⁶³⁷

16.6.3.3 *Employment of local Maori in the park*

The peoples of Te Urewera have never been satisfied with the employment opportunities offered by the park. In essence, they have felt the park employs too few people generally, and too few Maori in particular.

A complaint made by the claimants about employment in Te Urewera National Park is that the knowledge of local Maori about the history of the land and its people has always been undervalued by park administrators, with the result that local people have been under-employed in permanent positions. This, they say, has not only been financially detrimental to the resident communities in and near the park but has also damaged their relationship with park employees and the administrative regime of which they are a part.

The Crown, for its part, focused on DOC and the present employment situation in the park. Crown counsel submitted that its employment policies are ‘subject to the State Sector Act 1988’, and that ‘DOC operates an equal opportunities programme where all appointments to positions are based on merit.’⁶³⁸ Crown counsel

634. CR Whiting, officer-in-charge, Ruatahuna, New Zealand Forest Service, ‘Quarterly Report Ruatahuna Operational Area 951 – Period 1.10.79 to 31.12.79’, and Urewera National Park Board public meeting, Murupara, 5 June 1980 (Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), pp 382–383)

635. Coombes, ‘Making “Scenes of Nature and Sport”’ (doc A121), p 386

636. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 356

637. Murton, ‘The Crown and the Peoples of Te Urewera’ (doc H12), p 710

638. Crown counsel, closing submissions (doc N20), topic 40, p 4

also submitted that local Maori currently hold 40 per cent of staff positions in Te Urewera.⁶³⁹

In this sub-section, we examine the main ways that Te Urewera peoples have been employed in the park. For the first three decades of its operation, this was mainly as unpaid ‘honorary rangers’ and through Government-funded work schemes. We then examine their employment situation in the years after the Department of Conservation took over the management of the park in 1987. The park’s workforce became more ‘professionalised’ and a greater number of permanent, paid jobs became available.

16.6.3.3.1 PAID EMPLOYMENT, 1954–87

From 1954 to 1987, it appears that Maori were mostly employed as unpaid honorary rangers or through welfare training or assistance schemes. The park had only a small paid workforce, and it relied mostly on Lincoln graduates for its rangers. Throughout the 1967 to 1986 period, for which Coombes provided an analysis, there was only a handful of permanent staff drawn from the local Maori community; the peak was nine in 1984.⁶⁴⁰ According to claimant Sidney Paine, when he worked at the national park in the mid-1980s all the rangers were still Pakeha.⁶⁴¹ Coombes argued that ‘there was a distinct division of labour within the park: (permanent) managers were predominately Pakeha; (casual) labourers were generally Maori.’⁶⁴² On the other hand, casual work often suited Maori as a supplement for other forms of income. In general, he suggested, there appeared to be considerable sympathy among members of the national park and East Coast boards for the idea of offering employment to local Maori wherever possible, but this did not always translate into jobs.⁶⁴³

Later in the chapter, we consider the significance of the honorary ranger system for providing local Maori with a role in the management of the park and as ‘ambassadors’, representing the people to the park’s authorities, and the authorities to the people. Here, we are concerned solely with the issue that these honorary rangers were not paid. No one in our inquiry suggested that volunteer work was unimportant, or that local Maori who were honorary rangers should necessarily have been paid for the work that they did on behalf of the park and of their people. But when Stokes, Milroy, and Melbourne investigated the situation in Te Urewera in 1986, they recommended a re-evaluation of the idea – which seems to have been something of a blind spot at the time – that the only paid rangers should be scientifically qualified graduates. They called for urgent consideration of greater involvement by local Maori in interpreting the cultural significance of the park for visitors, and proposed employing people who were bicultural and bilingual in Tuhoe dialect as a category of ‘local ranger’, whose specialised skills and

639. Ibid

640. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp102–103

641. Sidney Paine, brief of evidence, 18 October 2004 (doc H20), p14

642. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p102

643. Ibid, p100

	1967	1968	1969	1970	1971	1972	1973	1974	1975
Permanent	0	0	0	0	2	1	2	2	4
Casual	2	4	6	9	7	12	16	21	24
Total	2	4	6	9	9	13	18	23	28

Table 16.5: Paid Maori employment in Te Urewera National Park, 1967–86

Source: Brad Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 103

knowledge would receive the same recognition and salary as rangers with conservation qualifications. Long-term resident Pakeha might also qualify to be 'local rangers'.⁶⁴⁴ Another possibility, they suggested, was to create a position of 'native liaison officer', like those employed in the United States National Park Service, an option which had been available for some time.⁶⁴⁵ Tama Nikora observed in 1986 (in comments sent to Professor Stokes): '[W]ould it be many more years yet, when it would be far too late, before this country will reach the kind of maturity achieved by say the US National Park Service where they endeavour to assist the Indians?'⁶⁴⁶

A significant number of honorary rangers were local Maori during this pre-DOC era. Paid employment, however, was mostly in the form of casual work (see table 16.5). The main source of funding was welfare employment schemes, which peaked in the early 1980s.⁶⁴⁷ These Government-sponsored schemes included the Temporary Employment Programme (TEP) and the Project Employment Programme (PEP), which helped to provide employment opportunities in the park and elsewhere until they were phased out from 1986. The kind of work done in the park under these schemes was track cutting and maintenance, control of introduced plants, and maintenance of other park recreation facilities.

The ranger in charge at Murupara provided figures for the level and type of employment obtained by Maori in the park over the 1967–1986 period (no comparative figures for Pakeha employment were given). These figures are summarised in table 16.5. As noted, the majority of the work was casual. Also, most of this employment was located in Taneatua, just north of our inquiry district. In 1967, the first year for which we have information, there were two Maori staff employed as casual workers at Taneatua. By 1980, there were five permanent employees and 30 casuals, with the majority of workers still based in Taneatua, but some were based in Aniwaniwa and Murupara. Numbers peaked in 1982, with five permanent

644. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 360–361645. *Ibid*, p 365

646. Nikora to Stokes, 21 April 1986 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 214)

647. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 102–103

1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
4	3	4	6	5	6	5	5	9	7	6
16	16	14	22	30	66	75	73	53	24	10
20	19	18	28	35	72	80	78	62	31	16

employees and 75 casuals (approximately one-third based in Taneatua), and over the next four years, the overall number of employees declined sharply. By 1986, at the time the Government employment schemes were being phased out and replaced by the 'Access' programme, there were six permanent employees but just 10 casuals.⁶⁴⁸

The work done on the schemes was physical in nature, difficult, and sometimes resented because of its low pay. Korotau Tamiana described his experience of working on a PEP scheme in the following way:

The workers were mainly Maori and we were cheap labour for the Crown . . . We had to cut tracks and bench tracks from Ruatahuna to Ruatoki, from Maungapohatu to Gisborne, from Maungapohatu down into the Waimana Valley, from Parahaki to Te Wai-o-Tukapiti up to the Pukeohu range and down into Lake Waikaremoana. We worked around Waikaremoana and opened up a track to Waikareiti . . . It was hard work and the conditions were poor . . . The track we cut to Ruatoki, was 47 miles long and we put it in on foot. On another occasion we had to carry an 18 foot klinker (boat) 900 metres from Waikaremoana to Te Waiti. We put it on two wheelbarrows and the boys had to pull it up. We also put in an effluent pipe from Waikaremoana 2 thousand meters up to Ngamoko . . . We carried all of our equipment on our backs. We worked in a team of 13 men and we worked in 10 day shifts without a day off . . . This was not the 1950s, I worked for DLS and DOC from 1974–1980 . . . We had to work for the DLS and DOC because we were involved with the work schemes and there was no other opportunities.⁶⁴⁹

As the titles of the schemes suggest, the work was temporary (often seasonal) and insecure, although some workers managed to stay on a scheme over several years, working on a succession of projects.⁶⁵⁰

648. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp102–103; Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p315

649. Tamiana, brief of evidence (doc E11), pp 3–4

650. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p560; Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p1163

THE [national park] administration exists to administer the law, a law which states for public reserve lands that they shall be administered for the enjoyment of the public, hence some held unswerving principle, 'thou shalt not discriminate'. If however it can be admitted that there is local government in New Zealand which endeavours to care for local communities, even in the face of plans by central government, is it not reasonable to suggest that for where the latter has local presence it should be sensitive to the needs of local community and accommodate it where possible? Then too, should not the views of the United Nations be heeded that it is important that cultures be fostered? And, should it not be more clearly recognised that these have place to contribute to diversity and uniqueness of identity [in] New Zealand? Or, would it be many more years yet, when it would be far too late, before this country will reach the kind of maturity achieved by say the US National Park Service where they endeavour to assist the Indians? Lastly, like most land owners, is it not reasonable to suggest that these lands be administered to accord good neighbour policy and to cooperate with them as far as possible?

Tama Nikora to Evelyn Stokes, 21 April 1986¹

1. Brad Coombes, comp, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"', various dates (doc A121(a)), p 214

The winding down of these schemes put pressure on permanent staff because they now needed to carry out the work previously done by the scheme workers. In a 1987 submission to the East Coast National Parks and Reserves Board, 'on behalf of those men of Tuhoe who are the hunters and providers of their family', it was proposed that Tuhoe hunters help monitor the parks to lighten the workload of 'already over-burdened' DOC rangers.⁶⁵¹ This request for temporary employment needs to be understood in the context of the widespread unemployment at the time, with corporatisation of the forestry service now in full swing. The chief ranger, Peter Williamson, noted in 1987 that should 'any PEP workers be taken on or any wage workers appointed, because of the employment situation in the area it is likely that those appointments will be of Tuhoe based people.'⁶⁵²

Government-funded programmes such as such as 'Access' and 'Mana Enterprise' provided some training in skills suited to tourism and commerce development. At Murupara, training modules consisted of basic accounting, reception, computer

651. Peter Owen to East Coast National Parks and Reserves Board, 'Draft Submission on the Draft Management Plan, Being the Management Proposals for Te Urewera National Park', 24-27 July 1987 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 241)

652. P Williamson, 'Points for the Retention of Management Uses of Horses in Te Urewera National Park', 15 September 1987 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 523)

skills, general management, Te Reo, first aid, and small business management.⁶⁵³ At Ruatahuna, a Maori Access scheme on possum hunting added to the PEP schemes run through two Ruatahuna marae and a training course in weaving.⁶⁵⁴ At Ruatoki, the Kokiri Skill Centre provided training in things like Maori crafts, bushcraft, and tourism. Later, in the 1989 to 1999 period, there were 44 courses being run across Ruatoki, Ruatahuna, Waimana, Waiohau, Waikaremoana, Tuai, Taneatua, and Rotorua, using general and Maori Access funds.⁶⁵⁵

In general, however, temporary employment and training schemes came to be regarded by locals merely as stop-gaps that did not lead to real jobs.⁶⁵⁶ A Ruatahuna submission to the 1987 royal commission on social policy stated:

Most of our young people and older unemployed are willing to work and they appeal for the creation of job opportunities in our area. They do not want to leave Ruatahuna nor do they want to be professional ACCESS trainees or PEP workers. They want real jobs right here.⁶⁵⁷

While we can understand this frustration, employment as park staff could never be a large part of the answer to the issues of unemployment in the inquiry district. Although casual work in the park could certainly help relieve under-employment, there were few permanent jobs on the park's staff.

16.6.3.3.2 EMPLOYMENT BY THE DEPARTMENT OF CONSERVATION (POST 1987)

In our inquiry, we have made significant use of the report prepared in 1986 by Professor Evelyn Stokes, Professor Wharehuia Milroy, and Hirini Melbourne (and filed as evidence in our inquiry). This report, published the year before the Department of Conservation took over the running of the park, marked the beginning of a shift in attitudes towards the need for local people to derive economic benefit from the park. For our purposes here, it prompted debate in particular on whether local enterprises and workers should be afforded priority over those from other areas. As we noted above, the report also called for local rangers with relevant cultural knowledge and skills, or alternatively for the American model of native liaison officers.

In Tama Nikora's opinion, as provided to the report's authors when it was still a draft, this need not have been seen as a 'race' issue but more a 'local' issue; it was important but not determinative that the communities enclosed and overshadowed by the park were Maori.⁶⁵⁸ Clearly, the report provoked debate on this issue,

653. Bassett and Kay, 'Ngati Manawa and the Crown' (doc C13), p 207

654. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), p 1180; Tuawhenua Research Team, 'Ruatahuna, Part 2' (doc D2), p 560

655. Murton, 'The Crown and the Peoples of Te Urewera' (doc H12), pp 1180, 1183

656. Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 565

657. Tuhoe submissions to the royal commission on social policy, 1987 (Tuawhenua Research Team, 'Te Manawa o te Ika, Part Two' (doc D2), p 563)

658. Nikora to Stokes, 21 April 1986 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 214)

and some reflection on the part of Government and park officials. W Kimber, a planning officer at the Lands and Survey Department, initially dismissed most of the draft report's proposals relating to Government or park employment of local people. He argued that local people should compete on the open market without Government assistance. He rebutted the proposal that local people should be employed by park authorities to interpret Tuhoe history, arguing that such skills should be sold directly to tourists, and commenting that 'Stokes fails to recognise the requirements of the consumer'.⁶⁵⁹ In response to the proposal for marae-based enterprises and Government assistance towards set-up costs, he commented that 'Stokes makes another case for preferential treatment of local enterprise'. He agreed that consideration could be given to training locals for tourist enterprises, but argued against subsidising or giving priority to local enterprises.⁶⁶⁰ His message for Te Urewera communities was a stark one: 'Any operation should be economically viable and stand on its own two feet. The local people will have to compete.'⁶⁶¹

Mr Kimber appears to have modified his view following discussion between his Hamilton counterpart, Mr McQuoid, and Tama Nikora. In their joint report, Kimber and McQuoid stated that, once it was proven that a proposed visitor service was economically viable, 'preference' could be given to locally based services. They also conceded that the suggestion of a 'special ranger . . . warrants a close look'.⁶⁶²

Soon after, in a submission to the East Coast National Parks and Reserves Board in July 1987, the Tuhoe-Waikaremoana Maori Trust Board expressed its view that local people should be considered for work opportunities in the park:

we consider that Park Management is in certain respects a form of local government which should be held responsible for the very real effects of its policies on the livelihoods of local communities and their living standards. We ask therefore that for wherever there is work, employment, contract or business concessions that the local communities be given favourable chance of securing same.⁶⁶³

Tama Nikora delivered a similar message when speaking to the trust board's submission: 'Local communities should be given the chance wherever there is

659. W Kimber, planning officer, to chief surveyor, 13 January 1986 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), pp 164-165)

660. Ibid, p 165

661. Ibid, p 164

662. R McQuoid and W Kimber, 'Social Study Draft Report by Dr Stokes et al Urewera/Raukumara Planning Study', 4 March 1986 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), pp 170-171)

663. Tuhoe-Waikaremoana Maori Trust Board to East Coast National Parks and Reserves Board, submission on Te Urewera National Park draft management plan (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 249)

work, employment, contract or business concessions. There is severe unemployment locally, and job creation is needed.⁶⁶⁴

The board chairman, Mr Wilcox, replied that ‘Tuhoe have the backing of the Board’, and confirmed that 26 permanent jobs could be offered, and social welfare benefits redirected, but parliamentary support must first be obtained.⁶⁶⁵ By September 1987, the promised jobs had not materialised, with Mr Wilcox making the following observations in a meeting of the East Coast board with a delegation of ‘young men of Tuhoe’:

the previous Commissioner of Crown Lands, with the Chief Ranger and the Board spoke to at least six politicians to try and get the staff available, everywhere we were knocked back. They all said they were well aware of what was necessary in Te Urewera, nothing was ever done.⁶⁶⁶

In the September meeting, the Stokes et al report was also referred to by the spokesperson of ‘the young men of Tuhoe’, Peter Owen, when he argued that the draft park management plan had not captured the ‘rights’ of Tuhoe to develop economically. Mr Owen said that the plan should ‘give Tuhoe the chance to do those things that they need to do to stand up as a people’, including ‘the right of employment in the park.’⁶⁶⁷ The subject of preference being given to local people was raised again:

We accept that the Park must be administered by DOC so long as they realise that it is Maori land . . . In administering the park we see the need for preference to be given to Tuhoe in day to day management. There are many things that could be done to give these young men work.⁶⁶⁸

The park management plan for the 10-year period 1989 to 1999 acknowledged something that earlier park administrations had not: that Maori communities ‘will continue to live adjacent to the park’, and that ‘*their lifestyle and livelihood is substantially based on the Urewera forest resource*’ (emphasis added). The plan

664. Tamaroa Nikora, meeting of East Coast National Parks and Reserves Board, Wai-iti Marae, Ruatahuna, 15–17 July 1987 (Coombes, supporting papers to ‘Making “Scenes of Nature and Sport” and ‘Preserving a “Great National Playing Area”’ (doc A121(a)), p 255)

665. E Wilcox, meeting of East Coast National Parks and Reserves Board, Wai-iti Marae, Ruatahuna, 15–17 July 1987 (Coombes, supporting papers to ‘Making “Scenes of Nature and Sport” and ‘Preserving a “Great National Playing Area”’ (doc A121(a)), p 255)

666. E Wilcox, meeting between East Coast National Parks and Reserves Board and ‘the young men of Tuhoe’, 17 September 1987 (Coombes, supporting papers to ‘Making “Scenes of Nature and Sport” and ‘Preserving a “Great National Playing Area”’ (doc A121(a)), p 266)

667. Peter Owen, meeting between East Coast National Parks and Reserves Board and ‘the young men of Tuhoe’, 17 September 1987 (Coombes, supporting papers to ‘Making “Scenes of Nature and Sport” and ‘Preserving a “Great National Playing Area”’ (doc A121(a)), pp 261–264)

668. Ibid, p 264

furthermore noted that '[c]onsideration of local social and economic impacts is an important element in park administration.'⁶⁶⁹

This shift in opinion and policy in the 1980s about the need to ensure Maori benefitted economically from the park does not appear to have translated into a significant change in job opportunities in the park. We did, however, receive limited evidence relating to the employment of Maori in the park post the 1980s. The 1989 park plan notes that '[r]esearch has not been undertaken to assess the actual or potential economic significance of Te Urewera National Park.'⁶⁷⁰ Coombes noted that in 1996, the Aniwanuiwa Area Office of DOC developed a scheme to employ local Maori as hut wardens during the summer period.⁶⁷¹

A lack of employment by local people within the park was noted as one of the grievances raised in a ministerial inquiry, following an occupation of the exposed lakebed in 1997–98 (discussed below). The ministerial inquiry did not accept the allegation that 'the Department of Conservation preferentially employs persons from outside the Lake Waikaremoana catchment', but noted it had been told about 'unacceptably high levels' of local unemployment and poverty. While noting the need for DOC to comply with the provisions in the State Services Act for employing on the basis of merit, the panel noted that it was reasonable for local people to expect that, where they had the necessary skills and experience for a vacancy, they would be employed in preference to someone from outside the area. The panel also warned DOC that, unless it was alert to the difficult social conditions of the local community, it could find its efforts to engage the community in the park frustrated.⁶⁷²

In 2005, the Department of Conservation's Maori workforce in Te Urewera comprised nine permanent and four temporary staff positions, and eight pest control contractors. This appears to be roughly on par with the employment figures in the 1980s. The conservator told us that local Maori held 40 per cent of the staff positions in 2005 (they represented approximately 73 per cent of the population at nearby Tuai, including Kuha and Waimako),⁶⁷³ but it is not clear what proportions were in permanent or part-time positions. He noted also that there had been a shift back to getting work done by contractors, and that these were required, under statute, to be tendered on a competitive basis. Nonetheless, he agreed that DOC 'cannot operate in a vacuum', and had therefore 'actively taken steps to increase community involvement in the functions we perform.'⁶⁷⁴ As Crown counsel noted, Mr Williamson stated at the hearing that 'ideally he would like the make-up of DOC's workforce to reflect fully the local population base.'⁶⁷⁵ His view was that, for

669. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 32 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1398)

670. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 52 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1407)

671. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 103

672. *Ibid*, pp 103–104

673. 'Quickstats about Tuai', Statistics New Zealand, 2006 census data, <http://www.stats.govt.nz>

674. Williamson, brief of evidence (doc L10), pp 37–38

675. Crown counsel, closing submissions (doc N20), topic 40, p 4

‘upper level’ positions at least, local Maori would need to supplement their knowledge and experience with scientific training and experience in other districts.⁶⁷⁶ He told the Tribunal:

The idea would be an even better representation by Maori within the workforce, and trying to facilitate that, and . . . we’re probably on our way to that with our 40 per cent, but that doesn’t represent the population of the area, the population base. So the ideal would be to represent the population of the area in our staffing mix, and that requires, I think, local people to develop themselves to a point where they can take over the management of Te Urewera and the various work that currently DOC is doing in there, if it’s still required further out. But in terms of species recovery, we need people who are competent, who are trained, and who can handle the range of species and ecological issues.⁶⁷⁷

This ‘ideal’ state has not yet been reached. We received no evidence to suggest that any means have been devised for ‘the local people to develop themselves’, as the conservator suggested was necessary; this will require the Crown and the people together ensuring that local Maori get the right training and assistance.

16.6.3.4 Conclusion

Given the economic situation that Te Urewera peoples were in by the time the park was created, and given how little land remained in their ownership as a result of failed Government promises, it was important that they were able to derive some economic benefit from the park. This need to derive income directly from the park was greater because of the restrictions the park placed on how neighbouring Maori-owned land was used, and by the decline of the forestry industry from the 1970s and the widespread unemployment that flowed from it.

A national park was never going to be a lucrative use of land, but Te Urewera peoples have struggled to capitalise on what economic opportunities the national park has presented. Outside Aniwanuiwa and the Waikaremoana area, tourism has simply not delivered the benefits that were anticipated. The 1989 management plan described Te Urewera as ‘one of the least visited national parks in New Zealand’ (despite being the third largest national park), and identifies its ‘isolation’, its distance from major tourist routes, and a lack of public transport to the park as the main causes.⁶⁷⁸ ‘Isolation’ is perhaps an oblique reference to the lack and poor quality of roading into and linking the communities in the national park, a legacy of the broken promises in the Urewera Consolidation Scheme, and an ongoing issue (see chapter 14). Professor Murton noted that the failure to build roads

676. Peter Williamson, oral evidence in response to Tribunal questions, Taneatua School, Taneatua, 1 March 2005

677. Ibid

678. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 32 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1398)

influenced the kind of tourism that was possible in Te Urewera National Park, and we agree that it was a significant influence.

Thus, commercial use of the park for tourism has been small-scale because the area has struggled to attract tourists, mostly because of roading and infrastructure problems. Also, Te Urewera communities have generally lacked the resources needed to set up and sustain commercial ventures. Even where the necessary capital has been available, the policy relating to commercial operations in the park has been restrictive and sometimes rigidly applied. The tourist venture we received the most evidence about, Te Rehuwai Safaris, has by all accounts been a 'success story', in terms of it being a long-term, low-impact activity run by, and benefiting, local people. But the restrictions put on its operations, particularly the series of one-year concessions, were onerous. Furthermore, the evidence suggests that even this 'prototype' venture might not have been granted the right to operate in the park at all had the park board not wanted to stay on the right side of those the Crown was negotiating with over the lease of Maori-owned land lying inside the park. Nonetheless, as the claimants pointed out, this safari tourism takes place almost entirely on their own land; they have to cross park land, however, for access.

Local people have been able to derive income through hunting and trapping, and related industries. This income appears to have been fairly modest, but there have also been some quite large-scale operations, like the fur and game centre at Ruatahuna and the live deer capture on Tuawhenua trust lands. The value of the 'noxious resource' and employment related to it has sometimes been overlooked by park and Government officials, such as when the national park framework, with its restrictions on dogs, horses, and shooting, was first introduced, and when trapping and hunting was eventually reduced or replaced by poison-use and large-scale aerial drops of 1080. More recently, the evidence suggested there is a greater awareness within DOC of the need to work with local people and consider their need for employment when making decisions on pest control, at least in the Waikaremoana area of the park.

The peoples of Te Urewera have tended to be employed in part-time, short-term, and low-paid work, such as that available through the Government work schemes. This is not, however, a national park issue in the strict sense; the kind of work available in the park may have shaped these schemes, but the schemes were not created or funded because work was available in the park. They were funded from welfare moneys and were not intended to be a long-term way of funding employment in the park.

We only have selective evidence about full-time employment, and we are not in a position to comment on budgets, capacity, the full range and extent of work needing to be done at various times, or employment policies. One important issue that emerged in our inquiry was the perceived conflict between best practice employment principles and preferential treatment of local people. This conflict was largely resolved by the end of the 1980s, so that – for two decades now – the park authorities have accepted that there is a need to help local communities and to prefer locals over outside candidates where there are matching qualifications. Stokes, Milroy, and Melbourne pointed out back in 1986 that local Maori have

knowledge and skills which deserved recognition in a position of 'local ranger' or (following North American models) 'native liaison officers'. Although Lands and Survey officials expressed cautious interest in the idea at the time, such positions were not created for the park. Before the 1980s, local Maori contributed their skills and knowledge as unpaid honorary rangers but that position has since been phased out (see below). While we had little evidence about Maori employment in the park from the 1990s, we support the findings of the ministerial inquiry of 1998, that DOC closely consider the social conditions of local people when making decisions about, and employing people in, the park. We note Mr Williamson's evidence that the park workforce does not yet reflect the make-up of the local population, and that development opportunities must be devised so that it can do so.

Te Urewera has generated even less income than most national parks. As noted in the 1989 park management plan, 'income and employment [in Te Urewera] generated through visitor use and administration of the park is relatively low when compared to other national parks in New Zealand'. When referring to Te Urewera park's low visitor numbers, it was noted that 'the park's remoteness and unspoilt natural beauty are . . . special characteristics that visitors find attractive'. This is unlikely to be of much consolation to Te Urewera peoples seeking a living from the park: tourists seeking a range of services, comforts, and entertainment presumably head elsewhere, while those attracted to an 'unspoilt' wilderness do not expect to pay for the experience.

More than 20 years ago now, the plan identified the following sources of employment and income in the park:

the Home Bay Motor Camp, commercial operations such as Te Rehuwai Safaris; and helicopter operations. Professional trappers/hunters (at present about 54 full-time and 33 part-time possum trappers) derive all or part of their living from the park suggesting a substantial income must be gained in total.⁶⁷⁹

The plan also noted that the use of forest resources, like animals and medicinal plants, helped to reduce living costs for local people, and held up soil and water conservation as its 'indirect economic significance'. Te Urewera peoples seeking economic opportunities from the national park would be forgiven for not finding this list inspiring. Most of these activities – hunting, trapping, use of forest resources (and soil and water conservation) – were taking place long before the park was established, and without a need to compete with others or apply for permits or concessions.

It is entirely consistent with the national parks concept and legislation that Government and park officials have been more focused on the park's conservation qualities than on the peoples living there, but it certainly has not helped Te Urewera peoples derive income from the park. The failure of the park to deliver much in the way of economic opportunities through tourism mirrors the failure of

679. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 52 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1407)

Seddon's and Carroll's vision for Te Urewera over a century earlier. The land has, as Carroll proposed, become 'a resort for tourists in the future', but in the present, offers little economically to the peoples of Te Urewera.⁶⁸⁰

16.7 DID THE CROWN PURCHASE MANUOHA AND PAHARAKEKE FROM INFORMED AND WILLING SELLERS AND WAS THE PURCHASE FAIR IN ALL THE CIRCUMSTANCES?

SUMMARY ANSWER: The Crown put to us that the purchase of the Manuoha and Paharakeke blocks was a 'willing seller/willing buyer' arrangement, in which the Maori owners wanted to sell their land and received a fair price for it. The claimants, on the other hand, argued that the owners had wanted to mill their land, not sell it, but were virtually forced to sell at the Crown's price because they were not allowed to mill it or to make any economic use of it. The claimants also argued that the Crown undervalued the land and timber, failed to disclose the proper information about the valuation (including its upper figure for the sale), and unjustly deprived the owners of £20,000.

In our view, the Crown was a fairly reluctant buyer. The threat of erosion and flooding if these blocks were milled was the main influence on the Crown's decision to try to buy them. The Maori owners had been trying for many years to get their land logged so that it could be farmed, but had been unable to do so. In 1959, they offered the land to the Crown for the good of the nation, and alternatively offered to have any logging tightly controlled. They wanted a fair price and to obtain farmable land instead. While there was some pressure from the Rucroft petition and the knowledge that applications to mill might be rejected, there was no Government pressure behind this offer. In fact, the Government declined it because of the perceived price (several hundred thousand pounds by any reckoning). The owners then resumed their attempts to have (controlled) milling and resolved to sell the cutting rights to Bayten Timber Company in 1960. When the application to approve the cutting rights came to the Minister of Forests, it sparked a minor crisis within the Government. Ultimately, after considering various options, the pressure of Wairoa public opinion led to a Crown purchase offer (in principle) in October 1960. The Government contemplated using the public works legislation to take the land compulsorily, but it was not necessary. The owners' representatives agreed (in principle); on the evidence, they were indeed willing sellers. Manuoha and Paharakeke were not core settlement lands, and the owners were anxious to obtain some kind of return on them.

A year's delay ensued while the Forest Service appraised the timber on these blocks (October 1960 to March 1961) and then the Government debated valuations and whether to proceed with the purchase (April to September 1961). Ranger Berryman and his team found that there was significantly less timber (including

680. Hon James Carroll, 'Urewera Deputation: Notes of Evidence', 7 September 1895 (Marr, supporting papers to 'The Urewera District Native Reserve Act 1896 and Amendments' (doc A21(b)), p165)

merchantable timber) than had previously been thought. We see no reason to doubt this appraisal, which was a careful, on-the-ground exercise with a margin of error of plus or minus 16 per cent. This was higher than the desired 10 per cent because of the inaccessibility of parts of Paharakeke. The Rotorua conservator, A P Thomson, valued the merchantable timber at £89,000 and the rest of the timber at £60,000. A D McKinnon at Forest Service head office then suggested that there was actually a range of values for the merchantable timber: from £66,000 to £72,000 to £89,000. He agreed with Thomson's valuation of the non-merchantable timber (at Forest Service minimum stumpage rates) at £60,000. A special Government valuation put the land at £5,000 but this was generally agreed within Government to be too low; the correct or fair value was considered to be £9,481, rounded down to £9,000.

Based on these figures, McKinnon recommended a price range from £140,000 to £160,000. Treasury agreed. The Minister of Lands, however, in taking the question of purchase to Cabinet for a decision in August 1961, stated that the valuation of the land and timber was £158,000 (that is, at the upper end). Cabinet signed off on the purchase in August, approving a minimum price of £140,000 and a maximum price of £160,000.

The valuations on which this decision was made, however, fell apart the following week. It was discovered (we have no information as to how) that the Government was legally obliged to match Bayten's offer and to pay £89,000 for the merchantable timber. This meant that the Crown would have to pay its maximum price, unless a new way could be found to justify the minimum offer of £140,000. As a result, the value of the non-merchantable timber was reduced to £45,000, which the Director-General of Lands admitted was an entirely 'arbitrary' figure.⁶⁸¹ Also, the value of the land was reduced to the Government valuation of £5,000, despite earlier agreement that this was too low. In this way, the Government abandoned its own valuations to come up with a justification for the minimum offer.

As it turned out, the incorporations' management committees and the special meeting of owners accepted this price in October 1961 without bargaining. They did so with professional advice – a lawyer and two accountants – and with information about the valuation supplied by the Government at their request. From the evidence available to us, the Government supplied the Berryman report (the appraisal of quantities of timber) but not the valuation material. While the Crown officials at the meeting could not have been expected to undermine its offer, we do not accept that the owners had all the information they needed to make an informed decision. Thus, while they were still willing (indeed, anxious) to sell in October 1961, they cannot really be described as informed sellers.

Nor, in our view, did the Crown make the offer that it knew to be fair. The Minister of Lands had put the valuation at £158,000. Minister of Forests Tirikatene had set the standard when he said in 1960 that this purchase had to be a 'model'

681. Director-General of Lands to Director-General of Forests, 17 August 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 43)

purchase, based on an ‘accurate and fair measurement and valuation.’⁶⁸² The Crown’s use of monopoly powers required it to act in a scrupulously fair manner. In the case of Manuoha and Paharakeke, the Crown imposed a virtual monopoly by withholding consent to the Maori owners’ resolution to sell cutting rights to Bayten Timber Company for more than a year while it negotiated its own purchase instead. Even if Bayten’s offer turned out to be too high (in light of costs), it was nonetheless the value set on this timber by the market after the owners had advertised for tenders. But, instead of the Maori owners being allowed to benefit from the market, officials revised earlier valuations of the land and the non-merchantable timber so as to still be able to offer their minimum price. These new figures were then presented as the valuations to the owners and the Maori Affairs Board, who were led to believe that both the Crown’s offer and the valuations added up to £140,000. Although the Maori owners were not unwilling sellers, the Crown’s virtual monopoly and the long period of anxiety between the agreement to sell (October 1960) and the Crown’s actual offer (September 1961) left them little choice but to sell at the Crown’s price.

Having regard to all the circumstances, we do not think that the Crown offered or paid a fair price.

16.7.1 Introduction: the specific claims about Manuoha and Paharakeke

In this section, we consider the claims that have been made about the Crown’s purchase in 1961 of Manuoha and Paharakeke. As we noted in the previous section, these were the only Maori-owned blocks that the Crown ever succeeded in buying for the national park.

Located on the eastern side of our inquiry district at the headwaters of the Ruakituri River, and together comprising some 38,000 acres, these blocks had been created by the second Urewera commission after it heard appeals relating to the Maungapohatu block in 1907. Manuoha was awarded to the descendants of Hinganga (see chapter 2 for a description of Hinganga and of relationships within Ngati Kahungunu). Paharakeke was awarded to Wi Pere and Ngati Maru, Ngati Rua, and Ngati Hine. These hapu were identified at our hearings, by counsel for the Wai 621 Ngati Kahungunu claimants, as hapu of Ngati Kahungunu, and by counsel for Te Whanau a Kai as hapu of Te Whanau a Kai.⁶⁸³

The Crown had not purchased any interests in these blocks in the 1910s or 1920s, and they formed no part of the Urewera Consolidation Scheme (see chapters 13 and 14). For a long time, their owners may have believed that the lands were part of the East Coast Trust (see chapter 12), because they were located in a remote area next to the Tahora 2 block. When they eventually discovered their mistake, because the East Coast commissioner could not approve logging or

682. Entrican, ‘Notes for File: Discussion with Minister at his Office, 13–10–60’, 17 October 1960 (Neumann, “. . . That No Timber Whatsoever Be Removed”) (doc A10), p 181)

683. Counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), pp 94–95; counsel for Te Whanau a Kai, closing submissions (doc N5), pp 4–5

farming operations, the owners formed incorporations and sought to develop the lands themselves. By the early 1950s, logging began to seem feasible in this remote area. The management committee undertook serious initiatives to arrange for a private company to log the Manuoha block.⁶⁸⁴ As we saw in the previous section, the Crown then stepped in and eventually negotiated a purchase of both blocks in 1961 for the sum of £140,000.

At issue between the Crown and the claimants in this inquiry is whether the Crown purchased the blocks for the national park from informed and willing sellers, whether the sellers received the full value of the timber and the land, and whether the Maori owners should have had to sell the land to realise the value of their timber resource.

According to the late Charles Manahi Cotter, in his evidence for Ngai Tamaterangi ki Ngati Kahungunu: 'Due to a number of circumstances including pressure from the Crown to add it to the National Park, and the fear by some of us that the Crown would take it anyway, that land [Manuoha and Paharakeke] was sold to the Crown.' In his view, the sale was a forced one, since the owners had 'no other options for income.'⁶⁸⁵

Counsel for Ngai Tamaterangi submitted: 'Unable to obtain revenue from the land, the owners were left with little option but to sell the land to the Crown at well under value, and in circumstances where the Crown had not fully disclosed the true value of the land.'⁶⁸⁶ In Ngai Tamaterangi's view, this alleged failure to disclose the true value was a breach of the Crown's Treaty duty to act in good faith.⁶⁸⁷

These allegations were also made by counsel for the Wai 621 Ngati Kahungunu claimants:

Kahungunu were unable to manage their lands within the Manuoha and Paharakeke Blocks and were unable to realise the value of their timber resources without alienating the title of these blocks to the Crown. The Crown also failed to negotiate in good faith with the owners, purchasing the blocks for the lowest valuation figure.⁶⁸⁸

Claimant counsel submitted that the owners expected to benefit from the rise in timber values, and there were timber companies ready to negotiate 'lucrative deals.' Since the Crown was unwilling to compensate owners for timber that they were prevented from milling, they had 'no choice but to sell lands to the Crown.' Counsel added: 'The forced nature of the sale of the Manuoha and Paharakeke Blocks, is further evidenced by the Crown acquiring the lands for £140,000, £20,000 less than its highest valuation.' The amount paid for the land itself, as opposed to the timber, was 'only a fraction of the total figure.'⁶⁸⁹

684. Richard Boast, 'The Crown and Te Urewera in the 20th Century' (doc A109), pp 164–166

685. Charles Manahi Cotter, brief of evidence, no date (doc I25(a)), p 22

686. Counsel for Ngai Tamaterangi, closing submissions (doc N2), p 50

687. *Ibid*, p 52

688. Counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), p 96

689. *Ibid*, pp 96–97

Counsel for Te Whanau a Kai also submitted that the owners could not secure any economic benefit from the forests, and that the price the Crown paid them in 1961 was ‘significantly less than market values.’⁶⁹⁰

The Crown did not accept these allegations and submitted that the two blocks were purchased from ‘willing sellers at a reasonable price’. Crown counsel questioned whether restrictions on milling had necessarily disadvantaged Maori owners, and argued that the Crown was entitled to govern in the interests of economic and social development and conservation.⁶⁹¹ The valuations undertaken by the Forest Service were fair, clearly explained to the representatives of the owners, and fully endorsed at a meeting of assembled owners with one dissenter only.⁶⁹² Crown counsel denied that undue pressure had been placed on them.⁶⁹³

16.7.2 The Maori owners attempt to use their lands

There is a long history of attempts by the Maori owners of Manuoha and Paharakeke to use and develop their lands.

Originally, these lands were included in the Urewera District Native Reserve. In 1907, the second Urewera commission cut them out of the Maungapohatu block. As stated above, Manuoha was awarded to the descendants of Hinganga, while Paharakeke was awarded to Wi Pere and the hapu of Ngati Maru, Ngati Rua, and Ngati Hine. None of these groups affiliated with Tuhoē. In 1908, as the General Committee moved towards leasing land to the Crown, Kawana Karatau and 219 other owners petitioned the Government for their portions of Waikaremoana, Manuoha, and Paharakeke to be removed from the ambit of the committee. As ‘non-Tuhoē’, they wanted to take control of their lands and arrange leases themselves. Historian Cecilia Edwards was not able to locate a Government response to this petition.⁶⁹⁴ In any case, Manuoha and Paharakeke remained in the Reserve, although no interests were purchased by the Crown. As we discussed in chapter 13, Wilson and Jordan considered them ‘unfit for settlement at present’ when they evaluated the UDNR lands in 1915.⁶⁹⁵ Because no interests had been alienated, and because the ownership differed from that of other lands in the Reserve, Manuoha and Paharakeke were not included in the Urewera Consolidation Scheme (see chapter 14).

The land was steep, forested, and remote. As far as the evidence shows, there were no Maori settlements on this land. Eventually, the owners may have come to believe that Manuoha and Paharakeke were included with Tahora in the East

690. Counsel for Te Whanau a Kai, closing submissions (doc N5), p 42

691. Crown counsel, closing submissions (doc N20), introduction and overview, p 36

692. *Ibid*, topics 14–16, p 93

693. *Ibid*, p 92

694. Cecilia Edwards, ‘The Urewera District Native Reserve Act 1896, Part 3: Local Government and Land Alienation under the Act’ (commissioned research report, Wellington: Crown Law Office, 2004) (doc D7(b)), p 61

695. Wilson and Jordan to chief surveyor, 1 August 1915 (SKL Campbell, comp, supporting papers to ‘Land Alienation, Consolidation and Development in the Urewera, 1912–1950’, 3 vols, various dates (doc A55(b)), vol 2, pp 24–25)

Coast trust.⁶⁹⁶ In 1937, a deputation of owners met with the acting Native Minister, Frank Langstone, asking the Crown to build a road from Wairoa through these lands and down to Waimana, so that they could get paid for roading work and then develop the land for farming. The Native Department discouraged this idea, advising the Minister that the land was too steep and of too poor quality for farming. Undeterred, a meeting of assembled owners at Pakowhai Pa passed a resolution that the land be developed for farming, by means of loan finance from the Maori Affairs Board.⁶⁹⁷ Under section 48 of the Native Land Amendment Act 1936, the Board could lend up to three-fifths of the value of the land for farm development purposes. We have no evidence as to what action, if any, the Board of Maori Affairs took in response to this resolution, but no farm development scheme eventuated.⁶⁹⁸

Before the land could be developed for farming, it would have to be milled. Next, having had no luck with the Government, the owners turned to the East Coast commissioner. In 1951, Commissioner Jessep advised the Minister of Maori Affairs, E B Corbett, that he had been receiving 'frequent requests by the owners to facilitate the milling of the timber on the blocks.'⁶⁹⁹ The commissioner had sought information from the Rotorua Conservator of Forests as to whether the land could be milled, without success. Again, we have no information as to how the Government responded to this approach.⁷⁰⁰

By the early 1950s, the owners had sought in 1908 to remove their land from the UDNR so that they could lease it (without a known response or any success), they had sought in 1937 a Government loan and road access for farm development (without a known response or any success), and they had sought assistance from the East Coast commissioner to mill their lands (again without a known Government response or any success). At this point, however, private milling companies became interested in the cutting rights for Manuoha and Paharakeke and it was no longer possible for the Government to ignore or sidestep the question of how the Maori owners might obtain an economic return from these lands.

16.7.3 The intersection of Maori attempts to use their lands and Pakeha fears of soil erosion and flooding

In 1954, the owners sought information from the Maori Land Court as to how to proceed with the milling of their lands. The following year, one of the leading owners, Sydney Carroll, applied to the court under the Maori Affairs Act 1953 to direct its registrar to call a meeting of assembled owners. The resolution to be put to the meeting was for the owners to incorporate in order to mill the timber and then farm the cleared land. The meeting of assembled owners was held

696. Richard Boast, 'The Crown and Te Urewera in the 20th Century' (doc A109), p 166

697. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), pp 171-172

698. *Ibid*, p 172

699. Jessep to Corbett, 22 March 1951 (Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p 172)

700. Neumann, "'... That No Timber Whatsoever Be Removed'" (doc A10), p 172

at Wairoa in July 1955 and the resolution was passed unanimously.⁷⁰¹ Carroll put to the owners that their lands were under threat: ‘it was a well known fact that the Government was keen to take over any land Maori or Pakeha which was lying idle’. The necessary ‘safeguard’ was to set up incorporations, which ‘would serve to show the Government that the owners of these blocks were anxious to make the lands productive’. It would also enable them to get loan finance. Similar incorporations were said to be doing well in other areas. The management committees would be ‘able to negotiate for finance if necessary’, and ‘if some company wanted to negotiate for timber or any other rights there would be a recognised body ready to do business’.⁷⁰²

As it turned out, the owners’ concern was directed at the wrong threat: not that they might lose their lands because they were seen to be lying ‘idle’, but that they might lose their lands to ensure that they would *continue* lying idle. It was from 1955 that the history of Manuoha and Paharakeke became bound up with growing public concerns about erosion, flooding, and preservation of native bush, which we have described in some detail in the previous section of this chapter. As Neumann observed, the 1955 resolution triggered two responses.

First, Eruera Tirikatene, as Minister of Forests, sought information from the Minister of Maori Affairs as to whether the Government intended to reserve ‘any portion of these blocks for the Nation’ (that is, as part of the national park), and whether or not the Crown would object to the private milling of these blocks.⁷⁰³

The second response came from the Forest and Bird Society. Bernard Teague, a prominent member of the Society, had tried to attend the owners’ meeting at Wairoa (but was refused permission). He subsequently made submissions to both the Wairoa County Council and Corbett, warning that the blocks should not be milled, that it would result in flooding and have a serious impact upon the catchment area for the Waikaremoana hydroelectricity power stations.⁷⁰⁴ But he also urged the preservation of the ‘remnant forests’. ‘[I]n this forest,’ Teague argued, there was a ‘potential playground for the tens of thousands of inhabitants of New Zealand who are not yet born. . . . It has an aesthetic, almost spiritual value.’⁷⁰⁵ Teague told Corbett that he had been approached by one of the owners, a kaumatua named Seymour Lambert, who reportedly wanted the Crown to buy the land so that the bush could be preserved. Teague advocated that the Government add the blocks to the national park.⁷⁰⁶

701. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp172–173

702. ‘Minutes of a Meeting of Assembled Owners Held under Part 23 of the Maori Affairs Act 1953, at Wairoa, 27 July 1955’ (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p173)

703. Tirikatene to Corbett, 10 August 1955 (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p173)

704. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp173–174

705. Bernard Teague, submission to Wairoa County Council, no date (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p174)

706. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p174

At this stage, however, neither the Lands Department nor the Forest Service supported the idea, largely because of the cost involved. A Forest Service note put a figure of £250,000 on the purchase, though no basis for this figure was given. This was evidently considered to be more than the Government could afford and the matter was not pursued.⁷⁰⁷ As we noted earlier, very little money was set aside annually for enlarging national parks. Particular purchases usually required some catalyst to give them political weight, before the Government would appropriate money for that purpose.

Later in the decade, the question was raised again. Timber companies continued to explore the possibility of obtaining cutting rights to the blocks and some owners considered undertaking milling operations themselves.⁷⁰⁸ In 1956, the possibility of the blocks being classified by the Urewera Lands Committee was raised, and rejected. The Minister decided that the work of the Committee should be confined to the 'Urewera bush lands of the Tuhoe'.⁷⁰⁹ There was, however, growing support among the owners for the goals of Teague and the Forest and Bird Protection Society. In 1959, a meeting of owners rejected an offer from Bayten Timber Company for timber rights in Manuoha, and deferred a decision for six to twelve months. They decided that there should be strict control of cutting of timber, that the Government should purchase the area after a full appraisal of the millable timber and the land itself, and that they should be assisted to purchase land elsewhere. Again, there was little Government interest; the later response of Prime Minister Walter Nash was that 'funds were not available at present'.⁷¹⁰

In Neumann's view, the Government's reluctance may have been partly because of the owners' aspiration to exchange land: 'there was little Crown land that could have been offered to Ngati Kahungunu in exchange'.⁷¹¹ It should also be noted, however, that Minister of Forests Tirikatene now viewed the substantial beech forest on Manuoha as a long-term development opportunity for its owners. At the time, it was felt that beech forests – unlike podocarps – could be logged sustainably. At a meeting with Tuhoe in November 1959, he contrasted their situation with that of Manuoha and Paharakeke, arguing that their cut-over forests had little value except for protection purposes, whereas Manuoha and Paharakeke could be

managed for perpetual supplies of split produce, fence posts, etc and sawlogs . . .
When they are opened up they might well be managed on a permanent yield basis

707. Ibid, pp 174–175. The Forest Service estimate was simply a marginal note on a memorandum, so its basis is unknown.

708. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 175

709. Corbett to Minister of Forests, 9 July 1956 (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 175)

710. 'Report on Visit of Prime Minister and Minister of Maori Affairs to Wairoa', 22 May 1959 (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 177)

711. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 177

by the Maori owners who should consider having their own young people trained as foresters by the Forest Service for this important enterprise.⁷¹²

Given the apparent lack of Crown interest in purchase, the Manuoha owners decided to resume their dealings with private sawmillers, and sought tenders from local companies through their solicitors. Despite wide circulation of the tender, only Bayten really wanted to buy the cutting rights; it already held the rights to the neighbouring Maungapohatu block, though it had yet to form an access road there.⁷¹³ Later, the forest conservator (Rotorua) would point to this rather remarkable lack of interest (given the 'exceptionally keen demand' for indigenous timber supplies) as indicating the 'unattractiveness' of the area for milling purposes, and the 'restricted' timber values.⁷¹⁴

On 9 May 1960, the incorporation's management committee, led by Turi Carroll, strongly advised a meeting of assembled owners to accept a renewed offer from Bayten that the committee had drafted in conjunction with the company. The owners voted overwhelmingly for the resolution in favour of selling the cutting rights at variable royalty (or stumpage) rates according to species. The minimum price was set at £30,000, and the term of sale was for 15 years with a right of renewal for a further 15 years. Stumpage rates were to be reviewed regularly (and were not allowed to fall below Forest Service minimum stumpages). The owners would receive a payment of half the minimum price upon confirmation of the resolution by the Maori Land Court and the Minister of Forests. The earlier Bayten offer of £80,000 for a sale of the whole block was rejected. As Neumann noted, the resolution referred only to podocarps; no price was offered for the substantial quantities of silver and red beech on Manuoha. Logging was not expected to start till the second half of the 1960s.⁷¹⁵

In the meantime, as we discussed in the previous section of this chapter, the Government had been subject to significant lobbying on the issue of logging in Te Urewera. We described how major flooding on the Rangitaiki Plains in February and December 1958, and proposals to create logging roads through the national park, prompted a 19,804-signature petition (the Rucroft petition) in 1959. This

712. Eruera T Tirikatene, *Urewera: Facts and Figures of the Urewera Maori Lands in Relation to the Four Catchment Areas, National Parks and State Forests, Delivered by the Honourable ET Tirikatene* (Wellington: New Zealand Forest Service, 1959), p 4 (Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p178); see also Nikora, 'Te Urewera Lands and Title Improvement Schemes' (doc G19), app C, p 4

713. Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), pp177-178

714. A P Thomson, Conservator of Forests, Rotorua, to director-general, Wellington, 6 April 1961, F1 W3129 18/2/190, Archives New Zealand, Wellington

715. Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p178; AD McKinnon, 'Report on Proposed Purchase by Crown for a National Park Manuoha and Paharakeke Blocks', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p53)

petition called for the remaining Te Urewera forests to be preserved, for the prohibition of milling of indigenous timber in all steep protective forests for the sake of soil and water conservation, and for a stay on the logging of indigenous timber until stands had been classified, followed by resumption of logging on a sustainable yield basis only. The petition also called for compensation for forest owners affected by prohibition of logging.⁷¹⁶ Detailed reports on the petition were provided by the Departments of Lands and Survey and Maori Affairs, the Forest Service, and the Soil Conservation and Rivers Control Council. The Lands committee referred the petition to Government for its 'favourable consideration'.⁷¹⁷ Cabinet considered the petition on 21 March 1960, and resolved that the petitioner be advised that action was already being taken to 'meet the prayer of the petition'. As we noted earlier, this was a reference to the drafting and passing of the Soil Conservation and Rivers Control Amendment Act 1959, section 34 of which provided for restrictions on milling.⁷¹⁸ As we stated earlier, the petition – numerous signed by Hawke's Bay and Bay of Plenty residents – had a considerable impact on Government policy.⁷¹⁹ In September 1960, the Soil Conservation and Rivers Control Council agreed to issue a public notice under section 34 of the Act, covering the entire Te Urewera region (including Manuoha and Paharakeke).⁷²⁰ We note that the council had been notified in March 1960 by Forest Service head office that tenders had been called for cutting rights to timber on Manuoha and Paharakeke blocks, and a follow-up letter to the council on 10 August 1960 notified them of the owners' resolution to sell to the Bayten Timber Company.⁷²¹

It was at this point that the Government took a new interest in the two blocks. The sale of cutting rights had to be approved by the Minister for Forests, Eruera Tirikatene, before it was confirmed by the Maori Land Court.⁷²² The company applied for ministerial consent to undertake cutting at Manuoha on 6 September 1960, and then sent a deputation to see the Minister on 14 September. At that point, Tirikatene indicated that the Crown might withhold its consent and might wish to purchase the land in order to protect the catchment of the Wairoa and Ruakituri Rivers. A committee of the owners, with their legal advisers, was due to meet the acting Prime Minister and the Minister of Forests on 4 October, and the Minister referred the matter to Cabinet in a submission dated 23 September. He

716. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 150–152

717. Tiaki Omana, 7 October 1959, NZPD, vol 321, p 2249 (Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 152)

718. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), pp 163–164

719. *Ibid*, pp 151, 166

720. *Ibid*, p 166

721. AD McKinnon, 'Report on Proposed Purchase by Crown for a National Park Manuoha and Paharakeke Blocks', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 53)

722. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 179

informed Cabinet that he had no option but to consent to the sale under the terms of section 218 of the Maori Affairs Act 1953.⁷²³

Whether or not this was a correct interpretation of his powers under the Act, Tirikatene was clearly aware of the decision of the Soil Conservation and River Control Council three days earlier to issue a section 34 notice restricting milling in Te Urewera. He sought Cabinet's advice as to whether the council would be required to consider aspects of this alienation. He also asked whether three rounds of compensation might be required: to the owners for trees which they had already agreed to sell but had not yet felled, once the notice was issued; to the owners for the prevention of future use of their land 'because the felling of any certain trees is prevented'; and to Bayten (and the owners) because the terms of their sale agreement would be affected. On the other hand, the Minister warned that logging operations would 'cause great public alarm' and a strong reaction from the residents of Wairoa. In light of these factors, the Minister put two further alternatives to Cabinet: would it consider purchasing the whole blocks at the rate of royalty agreed by the owners with Bayten; or would the owners be permitted to conclude some other kind of 'separate arrangement' with the Government?⁷²⁴

In the wake of Tirikatene's submission to Cabinet, Alex Entrican, the Director of Forestry, recommended Crown purchase of both blocks, and submitted a list of further recommendations to the Minister. It is significant that the letter was drafted by A D McKinnon, inspector-in-charge of the Forest Service management division, who would remain a strong and powerful advocate of purchase. It was recommended that:

- ▶ the Crown should purchase the blocks, and should do so quickly, to avoid the uncertainty that Maori owners elsewhere in Te Urewera faced because of slow Crown action;
- ▶ acquisition be accelerated by taking the land under the Public Works Act as an addition to the national park;
- ▶ a down payment of 10 per cent of the value of merchantable timber, calculated at Forest Service valuation, be made immediately notice of intention of the taking was issued – an approximate estimate of value suggested that the down payment would be £20,000; and

723. This stated in subsection (1) that: 'a contract of sale of any timber, flax, minerals, or other valuable thing attached to or forming part of any Maori land . . . or any contract, licence, or grant conferring upon any person . . . the right to enter upon any Maori land for the purpose of removing therefrom any timber . . . shall be deemed to be an alienation of that land, unless the thing so sold or agreed to be sold or authorized to be removed has been severed from the land before the contract, licence, or grant is made or granted.' The following subsections made such alienation contingent on the consent of the Minister of Forests: see Neumann, "' . . . That No Timber Whatsoever Be Removed'" (doc A10), p179.

724. E Tirikatene, Cabinet submission, CP(60)722, 23 September 1960, F1 W3129 18/1/190, Archives New Zealand, Wellington; Neumann, "' . . . That No Timber Whatsoever Be Removed'" (doc A10), p179

- ▶ the Minister withhold his consent to the sale of the timber to Bayten Timber Company.⁷²⁵

Entrican thus assumed the Crown should acquire both blocks, though only the owners of Manuoha had applied for consent to mill. And, as Neumann pointed out, Entrican did not consider other possibilities that had been suggested by Forest Service officers, notably allowing Maori owners to sell the timber from parts of the blocks that could be safely logged. The Gisborne district forest ranger, for example, was well aware of the threat of erosion. He had suggested in August 1960 that a land utilisation committee (like the Tuhoe one) be set up to classify the land, a sampling appraisal be carried out, and – if consents were obtained – the timber sold in lots of two to three million board feet. The cut-over areas should receive silvicultural treatment to promote healthy regeneration, and ‘balance areas’ should be considered for proclamation as national park.⁷²⁶ The assistant conservator, Rotorua, had guessed – he called it a ‘very rough estimate’ – that at least half of Paharakeke and 30 per cent of Manuoha would be classified as category c; that is, unsafe to mill for protection purposes.⁷²⁷ In other words, the Urewera Land Use Committee would have restricted no more than one-third of Manuoha from milling.

In discussion with the Minister, Entrican stressed that because of ‘the serious concern of the Wairoa people’, the only alternative was to buy the blocks to incorporate them in the national park. The Government not only knew that parts of the blocks could safely be milled, it was actively considering putting those parts into state forest and only the ‘non-merchantable’ parts into the national park. Yet, this was not considered feasible politically, both because of Wairoa public opinion and also because Maori owners might well feel aggrieved if the Crown were to buy the blocks and then mill the timber itself.⁷²⁸ And, as we discussed earlier in this chapter, the overriding concern for Ministers and for officials such as Entrican was the public perception that logging these blocks risked serious erosion and flooding, regardless of the accuracy of that perception.

On 3 October 1960 (the day that Entrican’s letter was submitted to the Minister), Cabinet decided that negotiations should be opened for the purchase of both blocks for the national park.⁷²⁹ Ministers then met the Maori owners, with their

725. Director of Forestry to Minister of Forests, 3 October 1960 (Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), p180

726. A M Moore, district forest ranger, to Conservator of Forests, Rotorua, 15 August 1960, BAFK 1466/207F 18/2/228, Archives New Zealand, Auckland

727. Assistant conservator to Kinloch, 11 August 1960, BAFK 1466/207F 18/2/228, Archives New Zealand, Auckland

728. Entrican, ‘Notes for File: Discussion with Minister at his Office, 13–10–60’, 17 October 1960, F1 W3129 18/2/190, Archives New Zealand, Wellington; Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), p180

729. Director-general to Minister of Lands, 15 May 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 64); McKinnon, ‘Report on Proposed Purchase by Crown for a National Park’, 18 May 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 53)

legal advisers, on 4 October. The owners were told that the Crown ‘would consider the purchase of the land and timber’ because milling would create dangers of serious erosion, and because the blocks ‘form a continuation of the Urewera National Park bush and have scenic value as well as being necessary for conservation purposes.’⁷³⁰ On 6 October the management committees of Manuoha and Paharakeke advised through their solicitors that they wished to negotiate a sale of both blocks to the Crown:

We wish to advise that the Management committees of Manuoha and Paharakeke Blocks Incorporated, for whom this firm acts, are desirous of commencing immediate negotiations with the Government on the sale of both areas to the Crown.

The respective Management Committees are available to meet representatives of your Department at any time and, as advised during discussions with you, the Blocks are desirous of proceeding without any delay in this matter.⁷³¹

We do not have evidence that the owners knew of the Soil Conservation and Rivers Control Council’s decision to issue a section 34 notice for Te Urewera, but we think, in light of the timing of their making an appointment to see Ministers, that they must have known. They doubtless considered that their chances of completing the sale of their timber to Bayten were now small.

We do not know exactly what passed at the meeting between the Ministers and the committee on 4 October. We must assume from its outcome that the Ministers stated their preference to purchase both land and timber. That was what the owners agreed to – to proceed to negotiation. It seems from a later account by the owners’ lawyers that the deputation had expected to discuss the Minister of Forests’ consent to Bayten’s application, and were instead told that consent would not be forthcoming and that the Crown was ‘anxious’ to purchase the blocks.⁷³² From their point of view, having agreed to a sale of both blocks, they wanted it completed without any delay. In his 3 October advice to the Minister, Entrican had proposed a compulsory taking (with compensation) under the Public Works Act. He recorded a discussion with Tirikatene that took place on 13 October, after the agreement with the owners to negotiate, in which the Minister

emphasised the necessity for making this a model for other compulsory acquisitions under the Public Works Act. He was most anxious for the goodwill and confidence of

730. RG Gerard, Minister of Lands, submission to Cabinet, ‘Proposed Purchase of Manuoha and Paharakeke Blocks’, 1 August 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 46)

731. Burnard and Bull to Minister of Lands, 6 October 1960 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 82)

732. Burnard and Bull to Minister of Lands, 8 June 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 52)

the Maori owners to be retained by expeditious, accurate and fair measurement and valuation [of the timber].⁷³³

It is not clear to us whether the Minister was keeping the public works legislation in reserve if the negotiations failed, or whether this shows that he actually saw the purchase as (essentially) compulsory. In any case, Tirikatene agreed with Entrican that the blocks must be acquired solely for the national park and not partly for State forest: that was what the Maori owners had been told, and it was also in accordance with the Government's 'multiple use policy, that is, preserving the area for both recreational and soil conservation purposes'.⁷³⁴

One question for the Tribunal is whether the owners had any real alternative by this time. The Minister had still not given his consent to the resolution of 9 May 1960 to sell to Bayten, which meant that the court would not confirm it.⁷³⁵ The court had indicated it would not make a decision until it had the approval of the Minister and a State forest evaluation.⁷³⁶ As it turned out, however, nine months were to transpire before a section 34 notice was actually issued. Cabinet approved the section 34 notice in principle on 7 November 1960.⁷³⁷ But the Labour Government lost the election later that month and the whole matter had to be referred to the new National Government for decision. In the event, the section 34 notice was not issued until June 1961.⁷³⁸

In the meantime, to secure the 'expeditious, accurate and fair measurement and valuation' of the timber, Minister Tirikatene had instructed his department to carry out a detailed on-the-ground assessment. Alongside the change of Government at the end of November 1960, the Forest Service began this task. A full report and valuation was not completed until March 1961.⁷³⁹ Thus – although the Crown and the management committees had agreed in principle to a purchase, and the owners had wished to proceed immediately – no section 34 notice was issued, the assembled owners' resolution to have the timber logged by Bayten remained the official position, and no formal ministerial approval or disapproval had been given to the Bayten application. This remained the situation for many months after the 4 October 1960 meeting.

733. Entrican, 'Notes for File: Discussion with Minister at his Office, 13–10–60', 17 October 1960, F1 W3129 18/2/190, Archives New Zealand, Wellington

734. Entrican, 'Notes for File: Discussion with Minister at his Office, 13–10–60', 17 October 1960, F1 W3129 18/2/190, Archives New Zealand, Wellington

735. The confirmation resolution came before the land court at a hearing at Wairoa on 21 June 1961, when the Lands Department representative did not appear; he did appear on 23 June. See Wairoa Maori Land Court, minute book 65, 21 June 1961, 23 June 1961, fols 34, 59; Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), p 185.

736. Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), p 180

737. Secretary of the Cabinet to Minister of Lands, 10 November 1960 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 78)

738. Neumann, ". . . That No Timber Whatsoever Be Removed" (doc A10), pp 168–169

739. *Ibid*, p 181

16.7.4 Were the owners willing sellers?

At this point in our discussion, we have sufficient evidence to decide the question of whether the Maori owners of Manuoha and Paharakeke were willing sellers. In essence, we have to decide this matter on the basis of fairly one-sided sources. The archival material assessed and cited by Dr Neumann gives a good insight into ministerial decision-making and official advice. The Crown, it seems, was a reluctant purchaser. As we discussed earlier in the chapter, the public perception that logging these lands would cause massive problems for low-lying Wairoa lands was the dominant impetus. At the same time, Minister Tirikatene was aware that much of the land could be safely logged, and that there was a possible future for the owners in forestry. But, having finally made the decision in October 1960, the Government was determined to press ahead – the general election and the long time it then took to get a timber valuation held up the sale for several months.

The same archival material, however, only gives us glimpses into the aspirations and intentions of the Maori owners. To determine whether or not they were willing sellers, we are forced to piece together their intentions from the nature and sequence of their actions and recorded decisions, which is inherently risky. The claimants' submissions relied on the documentary evidence: they did not provide us with oral history about the purchase, or any accounts from participants in the events leading up to the sale.⁷⁴⁰ The evidence of Te Whanau a Kai's witness, Mr David Hawea, was focused on the traditional history of Te Whanau a Kai and on Tahora 2 (and the East Coast trust). He did not mention the Paharakeke purchase.⁷⁴¹ In his evidence for Ngai Tamaterangi, the late Mr Charles Manahi Cotter referred to the owners' fear that the Crown would take the blocks anyway if they did not sell. The claimants' knowledge of this, he suggested, was confirmed by the documentary research:

The Manuoha and Paharakeke block has also been researched. This land block in and around Maungapohatu comprised approximately 37,000 acres and was in Ngai Tamaterangi hands. Due to a number of circumstances including pressure from the Crown to add it to the National Park, and the fear by some of us that the Crown would take it anyway, that land was sold to the Crown.

The research makes it clear and confirms my own views that we were forced to sell. The Crown basically ripped us off by preventing us from entering into what was a lucrative milling contract for our timber. With no other options for income we were basically forced to sell.⁷⁴²

The discussion of the evidence in this section shows that by 1951 the owners had made several attempts to make use of or gain an economic benefit from their lands. It is clear from their various attempts that they had a twofold aspiration:

740. Counsel for Wai 621 Ngati Kahungunu, closing submissions (doc N1), pp 95–96, 152–154; counsel for Ngai Tamaterangi, closing submissions (doc N2), pp 50–52; counsel for Te Whanau a Kai, closing submissions (doc N5), p 42

741. David Hawea, brief of evidence, 24 November 2004 (doc I37), pp 3–23

742. Cotter, brief of evidence (doc I25(a)), p 22

to log the timber and then to develop the cleared land for farming. In 1908, they had wanted to lease it. In 1937, they wanted to log it and farm it themselves. By the early 1950s, they were trying to arrange for the land to be milled. From time to time, officials had questioned the quality of this land for farming, but it remained an aspiration of the owners as late as 1955. In that year, a meeting of assembled owners passed a unanimous resolution to set up incorporations for the purpose of selling the cutting rights and then farming the land.

Then, partly in response to public concern about the potential effects of indiscriminate milling, there was a crucial shift in the owners' approach to the future of their lands. According to Bernard Teague, the influential Ngati Kahungunu leader Turi Carroll agreed with him in 1958 that the forest should be preserved and the owners should sell the land to the Crown for the national park.⁷⁴³ Whether or not Teague's claim was correct, in 1959, without any pressure from the Government, the owners passed a resolution to defer a decision on Bayten's offer for six months to a year. In part, their new stance was a response to the Rucroft petition (see above). They resolved that any eventual cutting must be strictly controlled, that the Crown should be offered the chance to buy the land for the nation in the intervening period, and that the Crown should be asked to help them use the purchase money to buy land 'nearer Civilisation', which we take to mean higher quality, farmable land closer to (as Dr Neumann put it) essential services.⁷⁴⁴

In a very important letter to the Minister of Maori Affairs, presented to him at a hui at Taihoa Marae on 22 May 1959, Turi Carroll explained the owners' position:

Sir, we are aware of a petition being sponsored by the members of the Urewera National Reserve Board and others on account of erosion, flooding etc. From the national point of view, Sir, we feel that:

- (a) Strict control of the cutting of timber must be adopted.
- (b) The Government of the country in fairness to the Maori people should purchase the area after a full appraisal of the value of all the millable timber plus the valuation of the land has been made.
- (c) With the assistance of the Government, Crown or private areas should be purchased with the funds that may be derived, to settle our people nearer civilisation.

Sir, I venture to state at this juncture that with the advice from you as our Minister and with the advice from the Minister of Forests, our people would be prepared to negotiate and finalise such an important issue.⁷⁴⁵

As noted above, the Crown refused this offer in 1959. As we have explained, the Government had several alternatives to outright purchase. After the six to 12-month deferral had expired, therefore, the owners once again considered the

743. Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), p176

744. *Ibid*, p176 n

745. AT Carroll to Minister of Maori Affairs, 22 May 1959 (Neumann, " . . . That No Timber Whatsoever Be Removed" (doc A10), pp176-177); Minister of Maori Affairs to Minister of Forests, 12 June 1959, F1 W3129 18/2/190, Archives New Zealand, Wellington

option of milling the land. We have no doubt that Mr Cotter was correct, and the owners feared that the Crown might take their land anyway. This had been an underlying concern since at least 1955, when they had been told that 'idle' land such as theirs was a target. But their public-spirited offer in 1959, and their goal of obtaining more usable land in exchange, shows a firm intention to seek a constructive solution to the dilemma facing them. As with the Government, they were responding to the public pressure of initiatives such as the Rucroft petition. There is no suggestion that they were unwilling to make this offer or felt that they had no other choice. Rather, the Bayten Timber Company's offer was deferred and therefore remained as a practical alternative, and they had signalled their willingness that any eventual milling would be tightly controlled. The owners still had choices in 1959 when they made their offer to the Crown. There was no section 34 notice on the horizon in April to May of that year. While they clearly felt some pressure, it was not coming from the Crown.

When the Crown declined to buy Manuoha, the management committee returned to the milling option. Rather than simply accept the out-of-date Bayten offer, however, tenders were sought in March 1960 (almost one year after the April 1959 decision to defer). Turi Carroll and the management committee strongly urged Bayten's new offer at the May 1960 meeting of owners, which won 'overwhelming' support. Clearly, the owners – having made their offer to the Crown and been rejected – did not feel that they had no alternatives. It was not until September 1960, when Bayten applied to the Minister of Forests to consent to the sale of the cutting rights, that the Government had to finally make up its mind about Manuoha (and, by association, Paharakeke). As we explained, Minister Tirikatene met with the owners a week after the application and told them that the Crown might not approve it. He also told them that the new Soil Conservation and Rivers Control Council would need to be consulted. In his view, the Government should offer to buy the land if it was not prepared to allow the owners to use it. As we have seen, Cabinet then agreed to purchase the land.

We have no direct evidence of the owners' attitude to this sudden turn-around on the part of the Government, other than their solicitors' letter in response to the 4 October meeting. As we noted above, this letter expressed the owners' agreement not simply to sell the land but to 'proceeding without any delay'. Tirikatene himself seems to have thought that an element of compulsion was unavoidable by this stage. Even so, we are unable to detect any unwillingness on the part of the owners. The Manuoha owners had been willing to sell to the Crown back in 1959, and by October 1960 both management committees clearly felt that – with this option back on the table again – the sale should simply be concluded as soon as possible. The final test, of course, would be a meeting of assembled owners to vote on the terms of a concrete offer. Until that final vote was taken, the owners still had the option of testing the Crown's willingness to use the public works legislation to take such a large area of land for a national park, and the possibility of obtaining compensation under the soil conservation legislation if the Crown was not – in the end – prepared to take their land compulsorily. As we have seen,

the Waikaremoana peoples successfully held out for a lease rather than sale of the lakebed a decade later but the option of a long-term lease to the Crown was not considered here. And the Bayten offer was still an active consideration, since the Minister of Forests continued to refuse to either approve or deny it. While much more constrained in 1960 and than in 1959, the owners still had some choices available to them in 1960.

In sum, we do not accept the claim that the Manuoha and Paharakeke owners were unwilling sellers in 1960.

The question remains: would the terms of the Crown's offer be fair? And would the owners be in a position to make a properly informed decision on those terms? As we have emphasised, Minister Tirikatene – in taking the view that this purchase was akin to a compulsory purchase under the Public Works Act – maintained that ‘the goodwill and confidence of the Maori owners [must] be retained by expeditious, accurate and fair measurement and valuation [of the timber]’.⁷⁴⁶ It is to the question of valuation that we turn next.

16.7.5 The ‘fair measurement and valuation’ of Manuoha and Paharakeke

The claimants had four main concerns about the valuation of Manuoha and Paharakeke. We summarise them as follows:

- ▶ first, that the Forest Service's valuation rose from £250,000 in 1956 to £435,000 for millable timber alone in 1959, and then dropped to a range of £140,000 to £160,000 for all land and timber in 1960, after the Crown had decided to purchase the blocks;
- ▶ secondly, that the Crown did not disclose the upper figure of this range (or that there was a range) to the owners, despite their request for full information about the valuation;
- ▶ thirdly, that the land was under-valued; and
- ▶ fourthly, that – as a result of all these factors – the Crown did not act in good faith or pay a fair price when it purchased these blocks in 1961.⁷⁴⁷

The Crown denied these allegations. In its view, the Forest Service made a ‘fair valuation of the timber on the two blocks’ in 1961. The reason for the drop in value was that, upon appraisal, there turned out to be ‘considerably less timber present than had been previously assumed’.⁷⁴⁸ The method used to arrive at the 1961 valuation was then explained to the blocks’ management committees, who were ‘most impressed with the appraisal report, and had no hesitation in accepting the accuracy of the figures.’⁷⁴⁹ On the advice of their solicitors and the management

746. Entrican, ‘Notes for File: Discussion with Minister at his Office, 13–10–60’, 17 October 1960 (Neumann, “... That No Timber Whatsoever Be Removed”) (doc A10), p 181

747. See, for example, counsel for Ngai Tamaterangi, closing submissions (doc N2), pp 50–52; counsel for Ngai Tamaterangi, submissions in reply, 8 July 2005 (doc N23), pp 9–10.

748. Crown counsel, closing submissions (doc N20), topics 14–16, p 93

749. Burnard and Bull to Minister of Lands, 6 November 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 13)

committees, the owners agreed to accept the Crown's offer.⁷⁵⁰ The result, in the Crown's submission, was a 'reasonable' price.⁷⁵¹

To a very large extent, the fairness of the purchase turns on these questions about how the land and timber were valued and then how that valuation was communicated to the owners. We therefore discuss these matters in some depth in this section.

16.7.5.1 The special Government valuation of the land is disputed

On 11 October 1960, in the wake of the agreement between the management committees and Ministers that a purchase would take place, the Director-General of Lands ordered a valuation of the blocks. The Gisborne district valuer reported back 10 days later, on 21 October 1960. He summarised his report as follows:

The vast areas involved and cover precluded a close inspection of property. Property was approached by foot on the two tracks previously mentioned, namely Hopuruahine Stream track and Bayten Timber Coy track and viewed from the vantage points gained from these routes.

We have compiled our valuation from this inspection and the use of aerial photographs and soil map.

We consider that there is somewhere in the vicinity of 8000 acres of lower, easier and stronger country carrying good bush, which if felled would not erode as readily as the balance and would lend itself to reforestation. We also are of the opinion that for various reasons already mentioned, this land has no development potential in the foreseeable future.

This is inherently poor country, and its present state of forest is undoubtedly its best use.

It is obvious that in the sale value of this property the land forms a very small portion of the total figure.

There are no improvements.

On a purely unimproved basis, we value this 37,925 acres at five thousand pounds (£5,000).⁷⁵²

The Maori Affairs Act 1953 (section 260) required this special Government valuation to be the *minimum* price offered by the Crown. It was first queried in April 1961, when the Rotorua Conservator of Forests, AP Thompson, wrote a special report on the proposed purchase of the blocks. In his view, the land would have a nominal value of five shillings an acre, which was confirmed by the local Lands Department's field officer. This gave a figure of £9,481. A D McKinnon supported

750. Crown counsel, closing submissions (doc N20), topics 16–18, p 93; see also topic 31, pp 29–30.

751. Ibid, topic 31, p 2

752. A K Ford and IW Lyall, valuation report on Paharakeke and Manuoha blocks, 21 October 1960 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 79–80)

this view in his official valuation of the timber.⁷⁵³ These opinions were reported to the Director-General of Lands on 29 April,⁷⁵⁴ who advised his Minister in May 1961 that the special Government valuation of £5,000 was ‘rather low’ and suggested that five shillings an acre be offered (£9,481).⁷⁵⁵ The director-general suggested that this be the opening price for the land. The Minister of Lands took this proposal to Cabinet in August 1961. With the concurrence of the Director-General of Forests, the Minister told Cabinet that it would be preferable to offer ‘up to 5/- an acre’ which, he stated, was the approximate value at which bush land was transferred between the Lands Department and the New Zealand Forest Service. In other words, he signalled that the value of the land should be the higher figure of some £9,000.⁷⁵⁶

Thus, the Rotorua conservator, the Lands and Survey field officer, the Director-General of Lands, the Director-General of Forests, and the Minister of Lands all thought that the Government valuation needed to be virtually doubled. It is unsurprising, therefore, that the claimants’ view in our inquiry was that the land had been undervalued, when the Crown nonetheless made the original value of £5,000 the basis of its offered price.

16.7.5.2 The Forest Service appraises the timber, October 1960 to March 1961

The valuation of Manuoha and Paharakeke has been researched by several historians, and Crown researcher Brent Parker assisted us by compiling and reviewing relevant documentation.⁷⁵⁷ Mr Parker noted that various estimates were made. In August 1959, a memorandum by Tirikatene stated that the cost to the Crown would be £275,000 and £160,000 for the millable timber on Manuoha and Paharakeke respectively, plus the value of the land and the protection forest. These figures were based on National Forest Survey reports.⁷⁵⁸ As will be recalled, the Government was unwilling to pay these kinds of prices in 1959. Once the Cabinet decision was taken in October 1960, an urgent appraisal and valuation of the timber was ordered. Forest Ranger NR Berryman then led a party of nine Forest Service personnel, which carried out a field survey of the two blocks in ‘very difficult circumstances.’⁷⁵⁹ In addition to an aerial reconnaissance, this party carried out 48 days of

753. McKinnon, ‘Report on Proposed Purchase by Crown for a National Park’, 18 May 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 60)

754. Director-General of Forests to Director-General of Lands, 24 April 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 71)

755. Director-General to Minister of Lands, 15 May 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 65)

756. Minister of Lands, submission to Cabinet, 1 August 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 47)

757. Parker, ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20). Parker reviewed a Lands and Survey Department file on the purchase that did not appear to have been referenced by other historians.

758. Minister of Forests to Minister of Maori Affairs, 18 August 1959 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), pp 85–86)

759. McKinnon, ‘Report on Proposed Purchase by Crown for a National Park’, 18 May 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 54)

field work on the blocks, using a methodology designed in conjunction with the Forest Research Institute (see sidebar). While the results had a margin of error of plus or minus 16 per cent, Berryman was satisfied that they were sufficient for the purpose of calculating the amount of merchantable and non-merchantable timber on the blocks, and their respective values.

Berryman filed a comprehensive report on 16 March 1961, which stated that there was considerably less merchantable timber on the blocks than had been previously thought.⁷⁶⁰ It was this report which led to a substantial drop in the price that the Crown was prepared to offer the owners.

According to Berryman's report, there were 6,720 acres of merchantable timber⁷⁶¹ in the Manuoha block, and only 1,492 acres in the Paharakeke block. He calculated that there was 23.6 million board feet of merchantable timber on Manuoha; this was mostly podocarps (13.3 million feet) with some beech and toatoa sawlogs (six million feet) and 4.4 million feet of red beech posts.

For Paharakeke, there was a much smaller quantity of some 5.9 million board feet. This included 2.9 million feet of podocarps, two million feet of beech and toatoa sawlogs, and just under a million feet of red beech posts.

The two blocks had a combined area of 29,713 acres of bush-clad land on which he classed the timber as non-merchantable.⁷⁶²

These figures stand in stark contrast to Bayten Timber Company's estimates for Manuoha, following its investigation of the block in 1958. In Berryman's view, their figure of 100 to 105 million board feet of podocarps, silver and red beech was 'rather staggering'. It was obvious from the Forest Service field work, he stated, that 'it is extremely doubtful if the large volumes of reported timber available were present'. Although the Forest Service figures had a larger margin of error than he would have preferred (see the sidebar opposite), Berryman argued that his calculations were 'within a reasonable margin for what is required'.⁷⁶³

In Berryman's view, his findings indicated that the Bayten offer might well be uneconomic. His costings took into account the mill which Bayten intended to build at Maungapohatu. Access costs, however, were high: establishing roads throughout the Manuoha and Paharakeke blocks (requiring four major bridges) would be a 'most costly and difficult engineering venture'.⁷⁶⁴ Berryman added that

760. Berryman to Conservator of Forests, Rotorua, 'Manuoha and Paharakeke Reconnaissance', F1 w3129 18/2/190, Archives New Zealand, Wellington

761. The national forest survey of 1955 stated that the term 'merchantable' as used in its report referred only to the quality of the forest (that is, it did not consider availability on legal grounds): 'Merchantable stands are those which are of sufficient extent, of sufficiently high quality, and of sufficiently high volume per acre, having regard to topography, to permit economic exploitation either immediately or within the next several decades.' See SE Masters, JT Holloway, and PJ McKelvey, *The Indigenous Forest Resources of New Zealand*, vol 1 of *The National Forest Survey of New Zealand, 1955* (Wellington: Government Print, 1957), p 16.

762. Director-General of Forests to Director-General of Lands, 24 April 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 71)

763. Berryman to Conservator of Forests, 'Manuoha and Paharakeke Reconnaissance', 16 March 1961, F1 w3129 18/2/190, Archives New Zealand, Wellington

764. *Ibid*

Berryman's Methodology

Berryman's aerial reconnaissance of the blocks on 28 October 1960 was followed by a week's ground inspection undertaken by himself and Leading Hand Ruru from 31 October. A base camp was then established at the junction of Whakarotu Stream and the Ruakituri River. Most of the work was conducted in day trips from this camp. The party spent 48 days in the field between mid-November 1960 and the end of January 1961 (with a break over Christmas and New Year).

The appraisal method was determined after consultation with P McKelvey of the Forest Research Institute. It was decided to carry out a line plot assessment; McKelvey determined plot positioning and numbers required. Plots were an acre in extent (five chains by two chains), with individual plots at 2 chain intervals. Ninety-nine plots were positioned in Manuoha block and 19 in Paharakeke. This reflected the fact that only the southern portion of Paharakeke was included in the reconnaissance, because of the 'mountainous nature' of the northern area and its 'inaccessible and unmerchantable timber areas'. The merchantable timber limit was fixed at 2,500 feet, and all plots were placed below this limit. (Ranges in Manuoha block rise to 4,602 feet above sea level, and in Paharakeke to 4,430 feet.) Berryman reported that his methodology had an 18.2 per cent margin of error for Manuoha and a 35.5 per cent margin for Paharakeke, with an overall margin of error of (plus or minus) 16 per cent. An extra 50 to 60 plots would have been required to bring the margin down to the preferred level of 10 per cent but this was considered unnecessary given that the calculations were, in Berryman's view, 'within a reasonable margin for what is required'.¹

1. Berryman to Conservator of Forests, Rotorua, 16 March 1961, F1 W3129 18/2/190, Archives New Zealand, Wellington

the blocks had 'no scenic value', slipping was 'fairly prevalent' along the higher ridge country, and erosion could 'gain an easy foothold in a limited period of time'. It would be most unwise, he reported, to permit indiscriminate logging.⁷⁶⁵

16.7.5.3 Calculation of minimum and maximum values, April–August 1961

16.7.5.3.1 THE APRIL–MAY VALUATIONS THAT RESULTED IN THE MINIMUM AND MAXIMUM VALUES

Berryman's appraisal ultimately resulted in two different valuations of the land and timber, and two contradictory sets of recommendations from the Forest Service. The first valuation was carried out in early April 1961 by the Conservator of Forests

⁷⁶⁵ Berryman to Conservator of Forests, 'Manuoha and Paharakeke Reconnaissance', 16 March 1961 (Neumann, "... That No Timber Whatsoever Be Removed") (doc A10), p181)

(Rotorua), A P Thomson. He advised the new Director-General of Forests, A L Poole, that the Crown purchase should not proceed.⁷⁶⁶ On 18 May, however, a full report on the purchase was provided by A D McKinnon, inspector-in-charge, from Forest Service head office. McKinnon recommended that the Crown should go ahead with the purchase.⁷⁶⁷ The figures in these two reports explain the difference between the minimum and maximum valuations for land and timber on the two blocks (£140,000 and £160,000 respectively) which were put forward by the Forest Service. As noted above, the claimants' view is that the Crown never disclosed the upper figure to the Maori owners, and that they were underpaid by the difference of £20,000. The Crown's view, on the other hand, is that the £140,000 was a demonstrably 'reasonable' price.

One of the problems that we are faced with in this inquiry is the fact that the Forest Service's figures were not actually the figures used to justify the Crown's eventual offer of £140,000. We explain why later in this section.

As noted, the Forest Service valuation was carried out by Conservator Thomson in April 1961. On 6 April, he reported to the director-general that the Minister of Forests should approve the owners' resolution to sell cutting rights to Bayten Timber Company. In his opinion, the high cost of gaining access to a relatively small amount of timber, combined with high logging and cartage costs, would make milling uneconomic. The timber company 'could quite well' abandon its intention when better informed. If logging of the millable timber below 2,500 feet did eventually go ahead, strict controls would prevent any threat of erosion.⁷⁶⁸

In terms of value, Thomson suggested that the 'sale values' of the merchantable timber were lower than either 'resolution rates' (the rate at which the owners had agreed to sell to Bayten) or Forest Service minimum rates. Nonetheless, he valued the merchantable timber at 'resolution rates' for the species covered in the Bayten agreement, and at Forest Service minimum rates for the other merchantable species. He advised: 'It is unlikely that there would be any chance of negotiation to purchase the timber at less than resolution rates.' Thomson therefore valued the merchantable timber at £88,785.⁷⁶⁹

In a supplementary report on 21 April, Thomson valued about 30,000 acres of non-merchantable timber at £60,000, and the land at £9,481. Because it was higher than the Government valuation, Thomson had his land valuation confirmed by the local Lands Department field officer. The non-merchantable timber was valued at Forest Service minimum stumpages.⁷⁷⁰ The suggestion of valuing it at this

766. A P Thomson, Conservator of Forests, Rotorua, to director-general, 6 April 1961, F1 W3129 18/2/190, Archives New Zealand, Wellington

767. A D McKinnon, 'Report on Proposed Purchase by Crown for a National Park', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 61-62)

768. A P Thomson, Conservator of Forests, Rotorua, to director-general, 6 April 1961, F1 W3129 18/2/190, Archives New Zealand, Wellington

769. Ibid

770. McKinnon, 'Report on Proposed Purchase by Crown for a National Park', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 60)

rate seems to have originated the year before, at a conference of officials with the acting Prime Minister.⁷⁷¹

Thomson's valuation was endorsed by A D McKinnon at head office on 24 April 1961. On behalf of the Forest Service, McKinnon reported Berryman's timber quantities to the Director-General of Lands, noting that they were 'approximate and provisional' until they could be thoroughly checked. What concerns us here, however, is the valuations. McKinnon advised, 'based on the values quoted in the resolution to sell to Bayten', that the value of the merchantable timber was £89,000. As we have explained, this in fact included Forest Service minimum stumpages for some species of timber. McKinnon described this as a 'provisional figure'. He then stated that the 'fair value' for the non-merchantable timber, 'based on Forest Service minimum stumpages', was £2 an acre (£59,246). And the value of the land was put at Thomson's figure of £9,481. He did not describe either of those two figures as 'provisional'.⁷⁷²

The next step was that the Director-General of Lands accepted these valuations and reported them to his Minister on 15 May 1961. The director-general therefore put the value of merchantable timber at £89,000 and that of non-merchantable timber at £59,426. He described these figures as the 'special valuation by New Zealand Forest Service'. The Government valuation of the land, he added, was only £5,000, giving a total value of £153,426. But the director-general also followed McKinnon's (and Thomson's) view that the land value had been set too low. He recommended it be increased, giving a total value for land and timber of £158,000. The director-general recommended his Minister 'to ask Cabinet to approve negotiations being opened for the purchase of these blocks at a price of £158,000'. The Maori owners were anxious to conclude matters with the Crown because they had 'the timber firm's counter offer' and there was 'pressure from among them to realise on their asset', while – for the Crown's part – the 'bulk of opinion in the Forest Service favours purchase rather than selective cutting'.⁷⁷³

Three days later, on 18 May, McKinnon wrote a detailed report for his director-general (of forests). It was at this point that a range in values was first suggested. As will be recalled, McKinnon had described the value of the merchantable timber as 'provisional' in his April report to the Lands Department, although the Director-General of Lands had proceeded on the basis of it. McKinnon now argued that the value of the merchantable timber could be based on:

- ▶ the value agreed for podocarps when the owners accepted Bayten's offer (£66,000); or
- ▶ Forest Service minimum stumpages for all the merchantable timber (£72,000); or

771. Entrican, 'Notes for File: Discussion with Minister at his Office, 13–10–60', 17 October 1960, F1 W3129 18/2/190, Archives New Zealand, Wellington

772. Director-General of Forests to Director-General of Lands, 24 April 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 70–71)

773. Director-General of Lands to Minister of Lands, 15 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 65–66)

- ▶ a combination of the Bayten Timber Company's value for podocarps plus minimum Forest Service stumpage for other timber (£89,000).

In turn, these three different values gave overall values of £135,000, £141,000, or £158,000.

In fact, however, the lowest of the three figures was irrelevant because it did not include those merchantable timber species for which there was no 'resolution value'. McKinnon was not seriously suggesting that this class of timber could simply be ignored. In essence, his position was that the Crown could either:

- ▶ pay Forest Service minimum stumpage for all the trees in the block (whether merchantable or non-merchantable); or
- ▶ pay Forest Service minimum stumpage for some species while also matching the Bayten offer for others.

This meant that his real range for the merchantable timber was the Forest Service minimum stumpages (£72,000, resulting in an overall figure of £141,000) and a mix of Forest Service and resolution values (£89,000, resulting in an overall figure of £158,000). It appears to be on *these figures* that McKinnon recommended a price range of £140,000 to £160,000.⁷⁷⁴

Like Thomson, McKinnon thought it would probably be uneconomic for Bayten to actually mill these blocks, but unlike Thomson he thought that the Crown should proceed with the purchase of both land and timber. Neither Thomson nor McKinnon considered that the practical difficulties of milling the land, or the possibility that it would be uneconomic to do so, affected the value of the timber or the price that the Crown should pay. After all, the Crown was not actually planning to mill any timber or obtain a 'sale price' for it, although the possibility was originally contemplated of putting the millable parts of the blocks into state forest, and only the non-millable areas into the national park.⁷⁷⁵ In any case, neither Thomson nor McKinnon thought that the Crown could offer less than Forest Service minimum stumpages. Also, Thomson and McKinnon agreed that the non-merchantable timber should be valued at Forest Service minimum stumpages, and that the Government valuation for the land was too low. Their sole difference, in terms of the valuation, was that Thomson thought it unlikely that the Crown could get away with offering less than Bayten, while McKinnon was not convinced of that point.

The next step in this valuation saga was that Treasury queried whether it was really necessary to spend £158,000 (the Lands Department's recommendation, based on the Forest Service valuation) if the need for purchase had not been clearly established. As far as we are aware, Treasury officials had not yet seen McKinnon's 18 May report, in which he recommended a price range of £140,000 to £160,000, based on a range in values for the merchantable timber. After reviewing

774. McKinnon, 'Report on Proposed Purchase by Crown for a National Park', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 59–60, 62)

775. Entrican, 'Notes for File: Discussion with Minister at his Office, 13–10–60', 17 October 1960, F1 W3129 18/2/190, Archives New Zealand, Wellington

Conservator Thomson's material and discussions with Director-General Poole, Treasury came to the view in June that controlled logging was both a safe and a preferable option.⁷⁷⁶ This drew a strong rebuttal from the Director-General of Lands. As we noted in section 16.6, the primacy of public opinion was stressed, in terms of the Rucroft petition, and also the majority opinion in the Forest Service, that there was a credible risk of erosion, and the concerted view of the Forest Service, Lands and Survey, and the Soil Conservation and Rivers Control Council that purchase was the best option.⁷⁷⁷ In respect of financial matters, the director-general stressed the possibility of the Crown having to pay for 'costly engineering works and flood damage repair', the inevitability that the value of indigenous timber would climb over the long life of Bayten's milling rights (30 years), and that the Crown would likely have to pay compensation for restrictions even if controlled milling was allowed.⁷⁷⁸

Here, we are particularly concerned with the question of valuation and price. Treasury bowed to a united stand from the other departments in July 1961 but it rejected the Lands proposal that 'negotiations be opened for purchase of these two blocks at £158,000'. By this time, Treasury officials had definitely read McKinnon's 'long report' of 18 May, and noted: 'Forest Service opinion is that acquisition be negotiated at a minimum price of £140,000 and a maximum price of £160,000'. Treasury endorsed this position:

Although not convinced that some degree of logging could not be permitted Treasury considers that on balance it would be better if a major transaction such as that with the Bayten Timber Company were not sanctioned. From this it follows that the land and timber should be bought, and *Treasury supports purchase at from £140,000 to £160,000.* [Emphasis in original.]⁷⁷⁹

The Minister of Lands finally took the matter to Cabinet in August 1961, still using his director-general's figures of £89,000 for merchantable timber, £60,000 for non-merchantable timber, and £5,000 (plus an extra £4,000) for the land. He specifically stated that the Government valuation for the land was 'rather low' and that it would be 'desirable' to offer a higher price for it. The total value of land and timber, he advised Cabinet, was approximately £158,000. The Minister did not, however, make the director-general's original recommendation that the purchase offer should be £158,000. Instead, he noted Treasury's price range and

776. Secretary to Treasury to Director-General of Lands, 16 June 1961, F1 W3129 18/2/190, pt 2, Archives New Zealand, Wellington

777. Director-General of Lands to secretary to Treasury, 26 June 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 49–50); secretary to Treasury to Minister of Finance, 19 July 1961, F1 W3129 18/2/190, pt 2, Archives New Zealand, Wellington

778. Director-General of Lands to secretary to Treasury, 26 June 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 49–50)

779. Secretary to Treasury to Minister of Finance, 19 July 1961, F1 W3129 18/2/190, pt 2, Archives New Zealand, Wellington

recommended that Cabinet approve negotiations for purchase 'at from £140,000 to £160,000'.⁷⁸⁰ On the basis of this paper, Cabinet approved a purchase within that recommended range on 7 August 1961.⁷⁸¹

In sum:

- ▶ Conservator Thomson valued the merchantable timber at £89,000, the non-merchantable timber at £60,000, and the land (after checking with the Lands and Survey field officer) at £9,481;
- ▶ AD McKinnon of the Forest Service head office conveyed these values to the Lands Department, but used the word 'provisional' to describe the value of the merchantable timber;
- ▶ the Director-General of Lands then conveyed these values to his Minister, recommending purchase at £158,000;
- ▶ AD McKinnon then wrote a detailed report, in which he suggested two alternative values for the merchantable timber, based on Forest Service minimum stumpages alone or a mix of resolution values and Forest Service stumpages, which supported a recommended price range of £140,000 to £160,000;
- ▶ Treasury eventually agreed to the Lands Department's proposal, accepted a valuation of £158,000, but followed McKinnon in recommending a price range of £140,000 to £160,000; and
- ▶ the Minister of Lands then advised Cabinet that the valuation was £158,000, that Treasury supported a price range of £140,000 to £160,000, and that the purchase should proceed within the recommended range, to which Cabinet agreed.

16.7.5.3.2 THE DRAMATIC CHANGE TO THE VALUATIONS AFTER CABINET APPROVED THE MINIMUM AND MAXIMUM VALUES

It was only after Cabinet approved the purchase that the basis of the figures underwent a dramatic change. On 17 August 1961, the Director-General of Lands wrote to the Director-General of Forests, stating that 'the Crown is legally bound to pay the minimum price of £89,000 for the millable timber on the blocks'. We have no information as to why or how this late discovery of the Crown's legal obligation was made. Nonetheless, the director-general had come to the view that the Crown had no choice but to pay what had been agreed between the owners and Bayten Timber Company for the podocarps, and also minimum Forest Service stumpage for the other millable timber.⁷⁸² But it was this component of the purchase (along with the land value) that had created the original variation between the minimum and maximum prices. All along, the figure of some £60,000 had been quoted for the non-merchantable timber.

⁷⁸⁰ Minister of Lands, submission to Cabinet, 1 August 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 47)

⁷⁸¹ Secretary of the Cabinet to Minister of Lands, Cabinet minute CM(61)35, 8 August 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 44)

⁷⁸² Director-General of Lands to Director-General of Forests, 17 August 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 43)

'Value of Timber Classified as Non-merchantable'

IT is considered that a fair value for this, based on Forest Service minimum stump-ages, is £2 per acre, or £59,426 for the 29,713 acres.¹

Director-General of Forests to Director-General of Lands, 24 April 1961¹

1. Brent Parker, comp, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks', various dates (doc M20(a)) p 71

Now, the director-general advised the Forest Service that the Lands Department (which was responsible for the purchase) had decided, after a telephone conversation with McKinnon, to 'use an arbitrary figure of £1/10 an acre for the unmillable timber as an opening figure and to adopt the Government valuation of £5,000 for the land [emphasis added]'. This brought the value of the non-merchantable timber down to £45,000 and the land down to £5,000. The director-general ended this remarkable revaluation of land and timber with the following statement: 'If this basis of negotiation is suitable to you, please confirm the figures shown so that negotiations with the Maori owners may be commenced.'⁷⁸³ On 31 August, Director-General Poole confirmed the Forest Service's acceptance of these new figures 'as the basis for an opening offer by the Crown.'⁷⁸⁴

As a result, the difference between the bottom and top figures was reversed: originally, it consisted of differing values ascribed to the merchantable timber, but now it consisted of differing values ascribed to the non-merchantable timber and to the land.

These changes to the timber values are not straightforward to interpret. In McKinnon's view – based on Berryman's – 'merchantable' timber was likely uneconomic because of the factors that would make milling it difficult and expensive. What McKinnon called its 'true value', therefore, may have been significantly less than the £89,000 that the Crown found itself legally obliged to pay.⁷⁸⁵ That may explain why the Forest Service – convinced of the need to come up with a new justification for an offer of £140,000 – accepted the 'arbitrary' devaluing of the non-merchantable timber from £2 an acre to £1 10s an acre as a quid pro quo. It may also explain the officials' willingness to revert to the Government valuation for the land, despite so many having condemned it as too low (see above).

783. Director-General of Lands to Director-General of Forests, 17 August 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 43)

784. Director-General of Forests to Director-General of Lands, 31 August 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 42)

785. McKinnon, 'Report on Proposed Purchase by Crown for a National Park', 18 May 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 58–61)

Category	Minimum valuation <i>initial version before legal obligation discovered</i>	Minimum valuation <i>Final version after legal obligation discovered</i>	Maximum valuation
Millable timber	£72,000	£89,000	£89,000
Unmillable timber	£60,000	£45,000	£60,000
Land	£ 9,000	£ 5,000	£ 9,000
Total	£141,000 <i>(minimum £140,000)</i>	£139,000 <i>(rounded to £140,000)</i>	£158,000 <i>(maximum £160,000)</i>

Table 16.6: The valuations justifying the minimum and maximum price

Nonetheless, it is difficult to escape the conclusion that the Lands Department and the Forest Service, when faced with an unexpected legal obligation, threw out what had been agreed as the appropriate values of the unmillable timber and the land (these had never varied). They did so in order to keep the Crown's offer to the approved minimum set by Cabinet. In our view, the claimants were rightly concerned about the basis on which the Crown's offer of £140,000 was made. The valuations were deliberately and arbitrarily recalculated to fit this sum, instead of dictating what the sum should have been once the Crown's legal obligation became known. Nor do we think it should have come as a great surprise, since Thomson's initial valuation had been based in part on his view that the Crown could not offer less than Bayten and expect the Maori owners to accept it.

When the Government put the revised valuations to the Maori Affairs Board, as justifying a price of £140,000, it no longer referred to the Forest Service minimum stumpage as the basis for valuing the non-merchantable timber. That had been the basis on which McKinnon had calculated that £60,000 was a 'fair value' for it.⁷⁸⁶ Instead, the director-general stated: 'the Crown is prepared to purchase this timber on the basis of ground cover only', giving it a value of £45,000 'as ground cover'.⁷⁸⁷

16.7.5.4 The Crown debates whether to proceed; the owners press for the sale to be completed

In the previous section, we established that the Crown's offer to the Maori owners of £140,000 was based on a dubious, last-minute revision of values for the non-merchantable timber and the land. But the offer was nearly not made at all; there was significant pressure within the Government for the Crown to abandon the

⁷⁸⁶ Director-General of Forests to Director-General of Lands, 24 April 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 71)

⁷⁸⁷ Director-General of Lands to secretary for Maori Affairs, 4 September 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 41)

purchase, and to consent instead to the controlled milling of Manuoha. A debate took place from April to August 1961, between officials of the Forest Service, the Lands Department, and the Treasury, before the Minister of Lands finally made a decision to take to Cabinet for approval on 1 August. After all, the decision to purchase had been made by the previous Labour Government, before the special valuations of land and timber, and the new National Government had to decide whether to still proceed. This question became bound up with the issue of the section 34 notice and the whole question of how to deal with milling in Te Urewera (see chapter 18).

In February 1961, the owners' solicitors contacted the Government about the purchase, and were advised that a special appraisal of the timber would soon be available.⁷⁸⁸ In April, aware that the special appraisal had now been completed, the Maori incorporations began to put pressure on the Crown to conclude the purchase 'quickly'. Their lawyers sought a meeting with the Minister of Maori Affairs to expedite matters. The Director-General of Lands advised Maori Affairs that the valuation figures would need to be reviewed by Treasury, and that a Cabinet decision on the sale would then be necessary. But, if no 'outright purchase' resulted, 'there was the likelihood of the Government agreeing to restricted cutting.'⁷⁸⁹ This advice represented differences of opinion among Forest Service officials, and some uncertainty in Government as to whether the purchase would still proceed. In the same month, the Government was once again considering the issue of a section 34 notice and the question of timber in Te Urewera in general.

A representative of the solicitors met with the new Minister of Maori Affairs, JR Hanan, on 24 April. He expressed the management committee's anxiety over the delay. The Maori owners wanted to know where they stood: could they sell to Bayten or would the Government decide to reserve the land and timber for conservation against erosion, and for scenic purposes? They were also concerned as to whether – in the event of the Bayten application being declined – they would at least receive compensation. Further, the solicitor asked if the Forest Service figures would be made available to the committee. At the time, he got little satisfaction; he was assured that the committee appointed by Cabinet (to consider the section 34 notice and timber in Te Urewera) would meet soon and he would be advised of any information resulting from the meeting.⁷⁹⁰

After this meeting, there was a three-month delay before Cabinet was advised to proceed with the purchase. We do not need to cover the detail of the debate between (and within) the Forest Service, the Lands and Survey Department, and the Treasury during those months. Dr Neumann has provided an account

788. Director-general to Minister of Lands, 20 February 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p74)

789. Lands Department, 'Note for File: Proposed purchase of Manuoha and Paharakeke Blocks', 21 April 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p72)

790. 'Notes of Interview: Hon Mr JR Hanan with Mr AG McHugh, Solicitor of Gisborne', 24 April 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p68)

in his report, and it is also fully documented in Mr Parker's collection of Lands and Survey Department papers.⁷⁹¹ Suffice to say that there was disagreement over whether milling by the Bayten Timber Company would ever actually happen (because it would turn out to be an uneconomic prospect), whether controlled milling below 2,500 feet was actually safe in terms of erosion and regeneration, and whether the Crown really needed to spend so much money to appease the very strong public opinion against milling this land.

Ultimately, the battle was won by McKinnon (in the Forest Service) and the Director-General of Lands, with the support of Director-General Poole (forests) and the secretary of the Soil Conservation and Rivers Control Council. Contrary views within the Forest Service and the Treasury were overcome, and, as we discussed in the previous section, Cabinet approved the purchase on 7 August 1961. This represented the victory of the view:

- ▶ that it was not actually safe to mill even the 'millable' timber in terms of the erosion risks;
- ▶ that public opinion about milling was 'a potent factor in this case';⁷⁹²
- ▶ that milling might not prove sufficiently uneconomic to deter Bayten;
- ▶ that milling might not be uneconomic at all, especially since the value of scarce indigenous timber would inevitably rise and Bayten was known to be an experienced and canny operator in the timber industry;
- ▶ that cleaning up the after-effects of erosion and flooding might prove far more expensive than the purchase price;
- ▶ that the Crown might have to compensate the Maori owners even if cutting rights were approved, because there would have to be stringent conditions;
- ▶ that no more roads should be put through the national park; and
- ▶ that the land should be added in its totality to the national park (and the millable part should not go into State forest).

Keeping faith with the Maori owners, given the Crown's September 1960 statement of intent to purchase this land, did not figure highly in the departmental debates although it carried some weight with all of them.⁷⁹³

16.7.5.5 The Crown takes its offer of £140,000 to the owners

On 4 September 1961, the Director-General of Lands wrote to the secretary for Maori Affairs outlining the circumstances of the purchase. He asked that the offer be placed before the Board of Maori Affairs and its approval sought for the Crown to enter negotiations with the Maori owners. He stressed that the Crown's offer matched the 'Resolution rates' for millable podocarps (that is, the rates agreed between the owners and Bayten Timber Company in the 1960 resolution to sell the cutting rights). For the remaining millable timber, the offer had been set at

791. See Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), pp182–184; Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 45–72

792. Director-General of Lands to secretary to Treasury, 26 June 1961 (Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p183)

793. See Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), pp182–184; Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp 45–72

the Forest Service minimum stumpage rates. As noted above, the same could no longer be said for the value put on the non-merchantable timber. The director-general explained that such timber was seen as ‘ground cover’ (that is, vegetation preventing erosion). Its value, he advised, was 30 shillings an acre. The offer in respect of the land matched the 1960 special Government valuation. On this basis, he said, the Crown was ‘prepared to offer £140,000’. In other words, he put to the board the minimum sum approved by Cabinet, for which the values had had to be revised to justify it (see above).⁷⁹⁴

In the paper put to the board for its approval, the board was specifically told:

A full appraisal of the timber on the Blocks has been made and Cabinet, on 8 August 1961, approved purchase by the Crown. On the basis of the valuations made the Crown is prepared to make an offer of £140,000 for the land, the millable timber, and the remaining ground cover consisting of non-merchantable timber.⁷⁹⁵

The board was advised of the ‘details of the valuations’ (which were the newly revised figures), and that these ‘valuations’ added up to the ‘Crown’s offer’ of £140,000.⁷⁹⁶ We think that this information was misleading at best. These were not the valuations that had been made as a result of the Forest Service’s appraisal of the timber. Nor were these the valuations that had justified Cabinet’s approval of the minimum price. Of course, the board was not advised that this was a minimum price. It was led to believe that the figure of £140,000 was in fact the sum total of the valuations that had been carried out.

The board gave its approval for the purchase at £140,000 on 28 September 1961.⁷⁹⁷ The day before, on 27 September, the Director-General of Lands advised his Minister of a recent request from the Maori owners that they be ‘supplied with the figures giving quantities and values of the timber on which the Crown offer was to be based’. This was a crucial moment for the claims before us: how would the Crown choose to explain the valuation to the Maori owners? The director-general stated: ‘An opening offer of £140,000 has been submitted for the approval of the Board of Maori Affairs and *after discussion with the NZ Forest Service it is felt that the same figures furnished to the Board can safely be submitted to the solicitors for the owners*’ (emphasis added). Accordingly, a letter had been prepared ‘giving an outline of the basis of the Crown’s offer’.⁷⁹⁸

Thus, almost a year after they had agreed to the sale on 6 October 1960, the Manuoha and Paharakeke incorporations finally received an offer from the Crown

794. Director-General of Lands to secretary for Maori Affairs, 4 September 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), pp 40–41)

795. ‘Board of Maori Affairs: Proposed Acquisition of Maori Land by the Crown’, approved 28 September 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 32)

796. Ibid

797. Neumann, “. . . That No Timber Whatsoever Be Removed” (doc A10), p 184

798. Director-General of Lands to Minister of Lands, 27 September 1961 (Parker, supporting papers to ‘Crown Purchase of Manuoha and Paharakeke Blocks’ (doc M20(a)), p 35)

on 27 September 1961. In the meantime, the section 34 notice had finally been issued in June 1961. This was an added risk for the owners, as the Minister's letter acknowledged:

Now that the purchase has been approved by Government, the owners can be assured that the issue of the notice on 30 June 1961 bringing these blocks under the provisions of the Soil Conservation and Rivers Control Amendment Act, 1959, will not operate to their detriment.⁷⁹⁹

In his letter, the Minister of Lands stated: 'Your request to be supplied with the details of the appraisals of the land and timber carried out by officers of the Crown is agreed to. The figures are as follows'. He then set out the figures for land and timber for each of the two blocks: a total of £94,100 for Manuoha and £44,900 for Paharakeke, amounting to a total of £139,000, rounded to £140,000.⁸⁰⁰

Under the heading 'Values per 100 board feet', the Minister explained these as the 'resolution rates' for rimu, miro, matai, kahikatea, and totara, as well as 'Forest Service rates' for the other species of merchantable timber. He then stated: 'Values of non-merchantable cover assessed at 30/- per acre'. While resolution and Forest Service rates were specified for the merchantable timber, no explanation of the 'values' of this non-merchantable 'cover' was provided. It is notable that, as part of the packaging of this offer, the non-merchantable timber was no longer called 'timber' but instead was referred to as 'non-merchantable cover' and 'non-merchantable vegetation';⁸⁰¹ this seems to have been part of an ongoing process of distancing this offer from the original Forest Service valuation. Next, under the heading 'Value of Land', the Minister gave the sum of £5,000, split between the blocks. Again, no mention was made of how this value had been calculated, although he could have mentioned the special Government valuation of 1960. The total was given as £139,000, rounded up to £140,000 (thus making the offer appear more generous than it needed to be).⁸⁰²

This was the information about the valuations that was placed before the management committees for the two blocks. On 6 October 1961, these committees met and unanimously resolved that a recommendation to accept the Crown's offer be placed before a general meeting of the owners. The committees asked to meet with the Forest Service officers who had carried out the appraisal before this took place, so that they better understood how it was carried out.⁸⁰³ On 9 October, their solicitors wrote to the commissioner of Crown lands, requesting 'some explanation

799. Minister of Lands to Burnard and Bulls, 27 September 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 36)

800. Ibid

801. Ibid, pp 36–37

802. Ibid

803. Burnard and Bull to Minister of Lands, 9 October 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20), p 29)

from the officers who carried out the appraisal as to matters arising from the appraisal by way of verification of the figures set out in the [Crown's] offer.⁸⁰⁴

According to the owners' solicitors, Burnard and Bull, reporting to the Minister of Lands, they had been 'most impressed' with the 'appraisal report'.⁸⁰⁵ From the context, it is clear that they were shown Berryman's 'appraisal' report, and not Thomson's and McKinnon's valuations (which had resulted from it). Berryman's report, it will be recalled, calculated the quantities and types of timber on the blocks, but did not ascribe monetary values to them. Thus, the committees would have obtained an understanding of why the values had dropped so considerably (because there was much less timber than previously thought), but not the basis on which the quantities of timber (or the land) had a value of £140,000 attached to it.

On 25 October, Berryman and another Forest Service officer, F A Lake, attended this joint meeting of the incorporations' committees at Wairoa. Ten committee members attended, with their solicitor (A G McHugh) and their two accountants. Both Mr Lake and Mr Berryman (with the aid of maps and figures) spoke, and members 'asked many questions'. Turi Carroll, the chairman, expressed their satisfaction with the answers, and asked the two men to attend the special meeting of owners.⁸⁰⁶ Again, we think that these staff would have been able to explain how the nature and extent of timber had been calculated. But there is no evidence to suggest that the committee was informed as to the values then calculated for timber and land by the Forest Service and the Lands officials, or the Minister of Land's submission to Cabinet that £158,000 was the value of the land and timber. The Gisborne commissioner of Crown lands was also present but we have no information as to what, if anything, he said about the valuation. But we think it most unlikely that officials could have said anything to undermine the Crown's offer. Short of commissioning their own valuation, the incorporation management committees had to rely on the Crown's offer as a fair one. Importantly, the Minister of Lands' explanation was that the price of £140,000 matched the valuations of land and trees. As far as we are aware, the owners had no information to the contrary.

The special general meeting of the owners was held later the same day. Lake guessed that some 200 were present; the proceedings were conducted, he said, entirely in Maori. The offer of £140,000 was accepted by the assembled owners on the committees' recommendation: separate resolutions empowering the committees of management to sign the purchase documents were passed by the owners of Manuoha, and of Paharakeke A and B blocks respectively. There was only one dissenting owner.⁸⁰⁷ The Reverend Niania stated at the meeting that he represented

804. Burnard and Bull to commissioner of Crown lands, 9 October 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20), p 28)

805. Burnard and Bull to Minister of Lands, 6 November 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p 13)

806. F A Lake, file note, 27 October 1961, F1 W3129 18/2/190, pt 2, Archives New Zealand, Wellington; Parker, 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20), pp 4-5

807. *Ibid*

other, absent owners, and that they would want their interests cut out by the Maori Land Court.⁸⁰⁸ Nothing came of this.

Finally, and only after the owners had accepted the Crown's offer, the Minister of Forests formally refused confirmation of the May 1960 resolution, which had sold Bayten the cutting rights to Manuoha.⁸⁰⁹ This was an important last act because the Crown had imposed a virtual monopoly in respect of Manuoha, withholding its consent to the owners' resolution for over a year while it negotiated a purchase of the block instead. As we have seen, the owners had become increasingly anxious to conclude matters, and the section 34 notice cannot have alleviated their anxiety (as the Minister's letter observed).

In their closing submissions, the parties have not raised any issues about the actual payment or the method by which it was made. We simply note, therefore, that a cash down-payment was made (£10,180 for Manuoha, £4,820 for Paharakeke). The balance was to take the form of New Zealand Government stock bearing interest at 5 per cent, with a term of not less than 10 years. The blocks were declared Crown land on 26 June 1962,⁸¹⁰ and by Order in Council of 3 October 1962 the blocks were added to Te Urewera National Park.⁸¹¹

16.7.5.6 Conclusions

16.7.5.6.1 WERE THE OWNERS STILL 'WILLING SELLERS' BY OCTOBER 1961?

We found above that the Maori owners were willing sellers at the point at which the initial agreement to sell was made in principle (October 1960). In effect, the Maori owners were left in limbo for a year while the Forest Service appraisal and valuation took place, and then while Government departments debated whether or not to proceed with the purchase (and, if so, at what price). The section 34 notice was finally issued at the end of June 1961, but the Minister of Forests had still not made a formal decision about approving or rejecting the application to sell the cutting rights. In theory, the application could still have been approved and the milling could have proceeded under whatever controls the Minister or the council set.

From the evidence available to us, Manuoha and Paharakeke were not core settlement lands for their Maori owners, who remained anxious to resolve matters and finally get some return for these lands. At most, they appear to have been neutral as to whether the blocks should be retained (and milled), or whether they

808. Commissioner of Crown lands, Gisborne, to Director-General of Lands, 27 October 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p26)

809. Neumann, "... That No Timber Whatsoever Be Removed" (doc A10), p185

810. 'Declaring Land to be Crown Land', 26 June 1962, *New Zealand Gazette*, 1962, no 44, p1077 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p4); deeds of sale of Manuoha and Paharakeke A and B blocks, 25 October 1961 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), pp18, 22)

811. 'Adding Land to the Urewera National Park', 3 October 1962, *New Zealand Gazette*, 1962, no 61, p1614 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p2); National Parks Authority, minutes, 23 August 1962 (Parker, supporting papers to 'Crown Purchase of Manuoha and Paharakeke Blocks' (doc M20(a)), p3)

should be sold to the Crown. Their real wish seems to have been for farmable land on which they could settle, but the idea of an exchange had been ruled out back in 1959. The management committees were unanimous and – apparently – enthusiastic supporters of the Crown's offer to buy the land. There was only one dissident at the special general meeting of the owners. From this evidence, we conclude that the Maori owners remained willing sellers when the purchase was completed in 1961.

16.7.5.6.2 WERE THE MAORI OWNERS 'INFORMED SELLERS' IN 1961?

From the evidence available to us, the owners were well informed as to why their timber was worth so much less than had seemed to be the case in 1959. They were given a copy of the Forest Service's appraisal report, and the author (Berryman) was made available to explain it and answer questions. Professional advice was available to the owners in the form of their lawyers and two accountants. For obvious reasons, the management committees could hardly ask the Bayten Timber Company to explain or justify its earlier estimates as to the quantity of millable timber on Manuoha. Expert forestry advice was likely to support the careful on-the-ground assessment made by Berryman in any case.

But the owners were given no information by the Government, as far as we can tell, as to the valuation on which the figure of £140,000 was reached. The explanation made to them was that the merchantable timber had been valued according to 'resolution' values and Forest Service minimum stumpages (which was true). They were also told that the non-merchantable 'vegetation' had been valued as 'ground cover'. We do not consider it too strong to say that this was a fabrication. The Forest Service valuations by the Rotorua conservator and by McKinnon had valued this 'timber' according to Forest Service minimum stumpages, and had placed a much higher value on it. Later, an 'arbitrary' figure was plucked out of thin air and applied to this 'vegetation', based solely on a figure that was necessary to fit the £140,000 offer price. Finally, the owners were told that the value of the land came from the special Government valuation (which was true but not the whole story, as we have seen). Based on this, we do not think that the owners had all the relevant information made available to them. In particular, the Forest Service special valuation should have been released alongside Berryman's appraisal. We cannot accept, therefore, that the Maori owners were fully informed sellers in 1961.

We agree with counsel for Ngai Tamaterangi that, when the owners asked for an explanation of the appraisal so that they could verify the figures in the Crown's offer, the Forest Service valuations should have been disclosed as part of this information.⁸¹² Without the correct valuations, the owners could not in fact make an informed verification of the figures in the Crown's offer. The owners did not have to accept the Crown's first offer, of course, and if they had attempted to bargain, the Crown was prepared to pay up to £160,000. But they saw no reason to question the valuations that they had been given, and therefore considered the offer a fair one.

812. Counsel for Ngai Tamaterangi, submissions in reply (doc N23), p 10

16.7.5.6.3 WAS THE CROWN'S OFFER FAIR ?

In our Treaty analysis section at the end of this chapter, we will evaluate the Crown's Treaty obligations to the Maori owners of Manuoha and Paharakeke. Here, we note that we cannot accept that the Crown's offer was fair in all the relevant circumstances.

First, there was almost unanimous agreement among officials (accepted by the Minister of Lands) that the special Government valuation had undervalued the land. It was always a part of the Crown's position that a fair price for the land was approximately £9,000, until late August when the figures had to be revised to justify the £140,000 offer. At that point, the Government reverted to using the special valuation without demur.

Secondly, it was a core part of the valuation that the non-merchantable timber was worth £60,000. Again, this was never questioned until the officials had to scramble to come up with a new justification for the £140,000 offer in late August. At that point, the valuation – based on Forest Service minimum stumpage – was abandoned, and a new figure was calculated solely on what would fit with the Crown's proposed offer. Although officials tried to repackage this as 'vegetation' and 'ground cover', giving up the term 'non-merchantable timber', this cannot conceal that an unprincipled and unfair reduction of the value of this timber took place.

Thirdly, the Minister of Lands submitted to Cabinet that the value of the land and timber – based on matching Bayten's offer for merchantable podocarps, paying Forest Service minimum stumpage for the rest of the timber, and paying a fairer price for the land – was £158,000. Cabinet then chose to make this valuation the (virtual) maximum price, and authorised a substantially lower offer. While in theory the owners could have bargained the price up, we cannot accept that the Crown made what it knew to be a fair offer. Rather, it made what it knew to be a minimum offer and, in the reasoning of the Minister of Lands, an unfair one. As we see it, this does not meet the standard set by Tirikatene in 1960, that the purchase should be based on an 'expeditious, accurate and fair measurement and valuation.'

Fourthly, Tirikatene's standard is particularly important because he accepted that the circumstances required a 'model' purchase on the part of the Crown. While the Crown did not actually decide to take the land compulsorily (which had been suggested), it gave itself an unfair advantage over the Maori owners by imposing a virtual monopoly over their dealings in these lands. The Minister of Forests withheld his approval of the owners' resolution to sell the cutting rights to Manuoha for over a year, until the Crown's purchase negotiations with the Maori owners were completed.

As we found in chapter 10, the Crown's use of monopoly powers requires it to act in a scrupulously fair manner. As we saw in that chapter, Maori were often denied the higher prices that they could have obtained from private parties – virtually compelled to settle for the Crown's minimum prices – in situations where the Crown exercised a monopoly over their lands. In the case of Manuoha and Paharakeke, the Crown unexpectedly found itself obliged to match a private offer.

Even if Bayten's offer turned out in the future to be too high (in light of costs), it was nonetheless the value set on this timber by the market after the owners had advertised for tenders. But, instead of the Maori owners being allowed to benefit from this, officials revised earlier valuations of land and non-merchantable timber so as to still be able to offer their minimum price. In our view, the Board of Maori Affairs and the Maori owners were not given the correct information as to the valuations that had resulted from the special appraisal, and were led to believe that the Crown's price matched the sum total of those valuations (when it did not). Although they were not unwilling sellers, the owners had no real bargaining power; we are not surprised that they accepted the price that they were offered.

As noted, we will consider the Treaty implications of these findings later in the chapter.

16.8 HOW HAS THE NATIONAL PARK AFFECTED THE ABILITY OF TE UREWERA PEOPLES TO CONTINUE THEIR CUSTOMARY USES OF PARK LANDS AND THEIR EXERCISE OF KAITIAIKI RESPONSIBILITIES?

SUMMARY ANSWER: The creation of Te Urewera National Park brought with it a general preservationist ethos that took little account of the fact that Maori communities continued to live on or within its borders, and were dependent on its lands and resources. Although the Crown acquired title to the land in 1927, it was not until after the park was established, and a new park administration was set up, that the effect of this loss began to bite. Resident Maori communities had continued their wide ranging uses of the land's resources: gathering plants for food and medicines, flax and kiekie for weaving, hunting pigs and deer for food, and taking timber for the construction of waka and whareniui. These were uses that were generations old; horses, dogs, pigs, and deer, too, had long been incorporated in everyday life. All these uses involved the preservation and transmission of knowledge about the sustainable use of natural resources. And as hapu continued to occupy and traverse their ancestral lands (even if the Crown had secured title to them), they continued to exercise their kaitiaiki responsibilities for wahi tapu and ancestral taonga.

A wide range of restrictions and controls over the use of park lands were laid down in National Parks legislation, which also established a National Parks Authority to set policy guidelines and local park boards to manage individual parks in accordance with them. The founding legislation – the National Parks Act 1952 – provided the framework in which all national parks would be administered, identifying a range of activities on park lands that a park board might undertake or authorise, and others that would be offences unless authorised by a park board. This system meant that there was some flexibility to allow for local circumstances. But the National Parks Act had the preservation of the natural environment, of native flora and fauna, and of scenery for public enjoyment as its core objective. Maori were not mentioned in the Act, and various prohibitions in effect shut out resident Maori communities who had lasting relationships with park lands – as was the case in Te Urewera – and their customary uses of that land. This was

reflected in the 'offences' listed under section 54 of the Act, which included a number of Maori customary uses. On the other hand, a remarkable number of recreational activities – such as skiing and hunting – and the construction of facilities for them, were permitted in parks, reflecting the interests of groups which had influenced the design of the Act, as well as public interests. The successor to the 1952 Act, passed in 1980, did little to alter the disjunction between the interests recognised and promoted by national parks and those of Maori communities.

The key objectives of the legislation were reflected in the four General Policies developed by the National Parks Authority and its successors between 1964 and 2005. The 1983 policy was the first to recognise that Maori communities might have special associations with park lands which could be acknowledged, but they were also seen simply as one of a range of 'interest' groups that should be consulted. At the local level, park management plans generally mirrored the focus of national policies; in fact the first Te Urewera park plan strongly stressed the wilderness character of the park, aiming to enhance the features of the park that made it appear 'unspoilt and unmodified by man'. The 1976 plan made little attempt to ameliorate the sense of alienation local Maori communities felt from the park.

Change would come, at both national and local park administration level. This was the result of several developments. International conferences during the 1970s and 1980s, attended by New Zealand officials, increasingly acknowledged the concept of 'sustainable' parks, particularly to recognise and accommodate the rights of indigenous communities that lived beside parks and continued to utilise their resources. At home there was political change, arising from protest against the monocultural nature of many institutions and the lack of Crown response to deeply held grievances. The outcome over time was recognition of Maori Treaty rights in certain legislation, the work of the Waitangi Tribunal, and court judgments which articulated and upheld Treaty rights.

But there have been limits to the change these developments brought in Te Urewera National Park. On the ground, issues that became flash points for dispute between Maori communities and park administration from the time of the creation of the park included: the use of horses for access across park lands to settlements on Maori land, and the use of horses and dogs for hunting; the customary harvest of plants; the protection and preservation of wahi tapu and other taonga; and the presentation of the history of Te Urewera in park plans and public information. The responses of park authorities on these issues have been belated, fragmented, and changeable, completely at odds with the fact that the issues are all elements of a coherent cultural system. Thus national and local park policies on plant harvesting moved – slowly – from an unwillingness to make formal provision for it (particularly the harvesting of pikopiko – an important seasonal delicacy which the park board never tried to stop) to eventual control by local communities in accordance with tikanga. The use of horses and dogs for hunting, much higher profile activities in which park visitors also had a keen interest, was harder for park authorities to handle. The Urewera National Park Board tried to accommodate local communities at the outset. But a permit system was introduced for horses from 1971, and soon extended from the Murupara ranger station across the

whole park. From 1973, horses were not allowed in the Waikaremoana watershed. Pressure from visiting hunters led to their being allowed to use horses in the park for hunting with a permit (unlike recreational riders), but at the cost of recognition of Maori traditional uses. From 1989, horse use was restricted to particular parts of the park. Dogs were banned in the early 1970s, but then readmitted after pressure from a pig-hunting club, and belated recognition by authorities that pig dogs assisted control of the pig population.

Further causes of tension between local communities and park authorities have been the destructive impact of park visitors on important wahi tapu and urupa, whose taonga have been plundered. Authorities have been considered insufficiently sensitive to the responsibilities of the peoples of Te Urewera as kaitiaki of artefacts and other historical taonga. Change came from the late 1980s, and there is now greater protection for wahi tapu (locations have been removed from the latest editions of maps, as Tuhoe wished), and consultation by DOC staff to ensure that wahi tapu are not disturbed. At Aniwanuiwa, park administrators have emphasised the participation of iwi and hapu in the storage and management of taonga, and have accepted that ownership should remain with Maori. It is not clear, however, whether these changes in respect of care of taonga apply across the park. The presentation of park history has also long remained a bone of contention between park administrators and Tuhoe leaders in particular. Park interpretations made only brief acknowledgement of a past Maori presence (initially cast in romantic terms), rather than the recognition Tuhoe sought of their own long history on park lands, and their history of strife with the Crown and of land loss (including the questionable methods by which the Crown acquired the park lands). Such recognition was clearly considered crucial by Tuhoe if their exercise of customary rights, and their marginalisation in decision-making, was to be avoided.

The key barrier to meaningful change in recognition of the customary rights of resident communities has, however, been the national parks legislation itself. The exercise of those rights in Te Urewera has long been known of by park administrators. But the parks regime, while responding in an ad hoc manner, has not tackled the systemic causes of the people's negative experiences of the park. The requirement in the Conservation Act 1987 that DOC administer that Act so as to give effect to Treaty principles has not been responsible for change to the administration of the National Parks Act 1980 of the order claimed by DOC. In the Tribunal's view, the National Parks Act is inconsistent with Treaty principles, which means that it cannot be administered so as to give effect to them. Although tangata whenua of Te Urewera are now recognised as kaitiaki of the taonga of the area, and there has been development of relationships with resident Maori communities, and better quality consultation with them, the goals of the National Parks Act remain focused on environmental preservation and conservation, and on the recreational uses of park lands by visitors.

For this reason, the national parks model that remains in place in Te Urewera is inappropriate for its particular circumstances. Administrators at both national and local level have failed to consider how protection of the indigenous flora and fauna of the park – an aim which Maori do not dispute – can be reconciled with

the ongoing customary uses of natural resources by Te Urewera resident communities on an acceptable basis. Such a basis would recognise the communities' own values of sustainable use, rather than applying rules meant to cover a range of public recreational uses, or waiving such rules informally, or creating exceptions for local circumstances which are susceptible to being overturned when challenged by groups whose interests are protected by the Act. Despite the increasing, if slow, recognition of Maori traditional uses of park lands, the cumulative experience of Maori communities has been one of frustration with, and resentment of, the park that is their close and overbearing neighbour. This is primarily because they have been relegated to a consultative role on implementing policies that have already been decided. It is also a result of a restrictive 'permit culture' that has been widely resented by the peoples of Te Urewera. The existing model has above all failed to offer recognition of the rights of local iwi, particularly Tuhoe, to full involvement in governance and management of the park.

16.8.1 Introduction

We turn in this section from the effects of the national park on the economic opportunities of the peoples of Te Urewera to its impacts on their customary uses of, and the exercise of their kaitiaki responsibilities for, the park's land and resources. Crown ownership had not put an end to either. The Crown had no real presence in the land it was awarded in 1927 at the end of the consolidation scheme (nearly half a million acres) for over 30 years afterwards. Before the national park was created, the land acquired by the Crown in the scheme was subject to minimal regulatory control. There had been earlier attempts to restrict the taking of native plants at Waikaremoana under the Native Plants Protection Act 1934 but, according to Coombes, flora harvests within Crown conservation spaces were tolerated and often ignored in the period before the park was established.⁸¹³

Once the national park was established, however, and once there were tangible signs on the ground of a new regime and a new administration, this would start to change. To claimants, the park's values and their own very limited role in park administration are at odds with their dependence on ancestral lands for their way of life, and with their corresponding responsibilities as kaitiaki. National park law and policy have restricted tangata whenua in the exercise of their traditional rights to such an extent that the Crown has, in effect, forced the claimants to adjust their tikanga.⁸¹⁴

The Crown has responded, however, that park management was ahead of the National Parks Authority's *General Policy* in taking account of tangata whenua interests. Those interests were known through the contribution of Maori park board members, and 'more informal interactions.' And since the Conservation Act

813. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 441–442

814. Counsel for Wai 36 Tuhoe, closing submissions, ptB (doc N8(a)), pp189–190; counsel for Tuawhenua, closing submissions (doc N9), p 293; counsel for Ngai Tamaterangi, appendix to closing submissions (doc N2(a)), pp 106–107

1987 was enacted, Maori interests have been formally protected in nationwide policies as well as in Te Urewera park plans.⁸¹⁵

The evidence of the claimants focused on restrictions on their traditional hunting and plant harvesting, on their views of the presentation and interpretation of their history by park management (arising from, and reinforcing, an unwillingness to recognise their continuing relationship with park lands), on its failure to protect their wahi tapu and taonga, and on its unwillingness to involve them adequately in decision-making about all these matters. That is how the claimants have long experienced the park: as an often overbearing administration, careless of their rights, even of their rights on their own lands, so close to the park. In this section we examine their strongly felt grievances.

In the last 60 years, there have been three distinct administrative regimes for New Zealand's national parks. The first regime was in force from 1952 to 1980, the second from 1981 to 1990, and the third has been in force since 1991. Each period is marked by the enactment of the statute that introduced the new regime – the National Parks Act 1952 (in force until 1980), the National Parks Act 1980, and the Conservation Law Reform Act 1990. The evidence presented to the Tribunal by claimant witnesses spanned all three periods and had a strong focus on the years before 1990. Some of the older people remembered the park being established in 1954 and had experienced all its effects on the lives of the resident communities of Te Urewera. They reminded us that during the 30 or so years that elapsed between the Urewera Consolidation Scheme and the creation of the national park, there were comparatively few restrictions imposed on the use of the lands the Crown had acquired, so customary uses of those lands continued largely unabated. The imposition of new rules from the mid-1950s and the increasing presence, over time, of Crown officers to enforce them, brought about a fundamental change in the lives of the local communities. The lands, waters, plants, and animals of the area that had always sustained them – physically and spiritually – were now available to all comers, but the uses that could be made of them were defined in ways that particularly disadvantaged Maori.

How far was the legislation, and the policies developed to meet the goals specified in the various Acts, suited to the circumstances of Te Urewera National Park? We pointed out at the start of this chapter that all but one of the five principles set out in the National Parks Act 1952 to be observed by park administrators emphasised preservation – of nature, native flora and fauna, of sites and objects of historical interest, and of soil, water, and forest conservation areas. The fifth principle was public freedom of entry to national parks, and public enjoyment of them. On the face of it, it might not appear that such goals were incompatible with nearby Maori communities continuing their own ways of life. In this section, we ask why – if this was the case – reconciliation of basic park objectives with sustainable use of resources by resident communities, and preservation of wahi tapu and taonga, has proved to be an elusive goal.

815. Crown counsel, closing submissions (doc N20), topic 33, pp 8–11

We consider the following questions:

- ▶ How has the preservationist model been reflected in legislation governing national parks?
- ▶ How has the preservationist model of national parks administration been applied to Te Urewera National Park?
- ▶ To what extent has the preservationist model affected Maori customary uses of park lands and resources, and their kaitiaki responsibilities?

We begin with an overview of the legislation governing national parks, and the policies of the various national authorities which guided the local park boards; the boards were responsible, until 1980, for the operation of the individual parks.

16.8.2 How has the preservationist model been reflected in legislation governing national parks?

The statutory scheme for New Zealand's national parks, which all park administrators must comply with, has always emphasised one core principle: the preservation of unique landscapes and their flora and fauna. This principle, first established in the National Parks Act 1952, was restated in the National Parks Act 1980, which is still in force today. Section 3(1) of the 1952 Act specified that it was to have effect for the purpose of 'preserving in perpetuity as National Parks, for the benefit and enjoyment of the public, areas of New Zealand that contain scenery of such distinctive quality or natural features so beautiful or unique that their preservation is in the national interest'.

The Crown's legislation not only set out the purposes and principles of national parks but also contained other provisions that gave direction or guidance to park board decisions. We look first at key provisions identifying activities that were prohibited or restricted in a national park – unless authorised by the National Parks Authority or a park board, or both. Section 29 was particularly important; it focused on the preservation of native flora, which was clearly a prime goal. It required the National Parks Authority to give its consent before a park board authorised the cutting or destruction of any native bush in a park.

Section 54, entitled 'Offences within the Park', was also important. It made it unlawful, unless the park board had given its prior consent, for a person to conduct a large number of specified activities in a national park. Many traditional uses of the natural resources in the national park were among those activities, including cutting and removing plants, shooting an animal, using horses in the

Section 29 of the National Parks Act 1952

29. Bush to be preserved—Save with the prior consent of the Authority, the Board shall not cut or destroy or authorize any person to cut or destroy any native bush in the Park.

Section 3(2) of the National Parks Act 1952: The Purpose of the Administration of Parks

(2) It is hereby further declared that, having regard to the general purposes specified in subsection one of this section, National Parks shall be so administered and maintained under the provisions of this Act that—

- (a) They shall be preserved as far as possible in their natural state:
- (b) Except where the Authority otherwise determines, the native flora and fauna of the Parks shall as far as possible be preserved and the introduced flora and fauna shall as far as possible be exterminated:
- (ba) Sites and objects of archaeological and historical interest shall, as far as possible, be preserved:
- (c) Their value as soil, water, and forest conservation areas shall be maintained:
- (d) Subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the native flora and fauna or for the welfare in general of the Parks, the public shall have freedom of entry and access to the Parks, so that they may receive in full measure the inspiration, enjoyment, recreation, and other benefits that may be derived from mountains, forests, sounds, lakes, and rivers.

[Paragraph (ba) was inserted by section 2 of the National Parks Amendment Act 1972.]

park for transport and hunting, and using dogs for pig hunting. The heavy penalties attached to the section 54 offences revealed that they were regarded very seriously by the Crown and Parliament (see the sidebar over).

But a further set of provisions in the 1952 Act empowered a park board, the authority, or the Minister to allow certain activities in, or uses of, a park. The inference to be drawn from these provisions was that activities and uses that were *not* on the list should not generally be permitted and, if they were to be permitted, should be subject to strict conditions. But the range of activities, particularly recreational activities, provided for in a park was remarkably broad. Boards might set aside sites for park staff residences, build huts and ski tows, and create camping grounds and parking areas (see the sidebar over).

Boards were also empowered to make by-laws (section 38), which had to be approved by the National Parks Authority and would then be published in the *Gazette*. Purposes for which they might make by-laws included:

- the management, safety and preservation of the park, and preservation of the native flora and fauna; or
- prescribing conditions on which persons should have access to or be excluded from the park.

If there was no board (as was the case in Te Urewera until 1961), the functions

and powers of a park board were generally to be exercised by the commissioner of Crown lands of the relevant land district, except for the power of a park board to make by-laws, which was to be exercised by the National Parks Authority (section 41).

There was, however, no provision in the 1952 National Parks Act that recognised, let alone promoted, Maori relationships with, including their customary uses of, a

Section 54 'Offences within the Park' under the National Parks Act 1952

By way of example, section 54 of the National Parks Act 1952 made it an offence to:

- ▶ cause any cattle, sheep, horses, or other animals to trespass on the park;
- ▶ fail to remove any animal once required by the park board to do so;
- ▶ plant any plant, scatter the seed of any plant, or introduce any substance injurious to plant life;
- ▶ wilfully break, cut, injure, or remove any plant, stone, mineral, or thing;
- ▶ be in possession of a firearm;
- ▶ shoot at any bird, animal, object, or thing;
- ▶ take or destroy or wilfully injure or disturb any animal, bird, nest, or egg;
- ▶ take any bark, flax, mineral, gravel, or other substance or thing;
- ▶ use or sell any bark, flax, or other thing knowing it was removed unlawfully from a park; or
- ▶ interfere in any way with the park or damage its scenic or historic features.

Penalties for Offences under the National Parks Act 1952 and Amendments

Offences were punishable by a maximum of three months' imprisonment, or a fine of £100, or both of those penalties.

Continuing offences were punishable by a fine of up to \$10 for each day the offence continued.¹

The penalty for section 54 offences committed by individuals was amended to a maximum of three months' imprisonment, or a fine of \$2,500, or both of those, plus a further penalty of up to \$50 a day for continuing offences.²

If a company was the offender, the penalty was set at a maximum fine of \$5,000, plus \$50 a day for continuing offences.³

1. National Parks Amendment Act 1967, s 2

2. National Parks Amendment Act 1977, s 8

3. *Ibid*

Allowable Activities in Parks under the National Parks Act 1952

Under sections 28, 30, and 32 of the National Parks Act 1952, every national park board may exercise 'in respect of the Park under its control' all or any of a number of powers. These include the power to:

- use any portion of the park as sites for park rangers' residences;
- license a person to carry on any trade, business, or occupation in the park;
- erect or authorise the erection of:
 - huts for the use of persons engaged under lawful authority in the destruction or eradication of introduced flora and fauna in the park;
 - huts by any mountaineering, winter sports, or tramping club, or any other association, society, or body approved by the National Parks Authority; and
 - ski tows or other apparatus or works designed to facilitate tourist traffic or the enjoyment of skiing and other winter sports;
- with the prior consent of the National Parks Authority:
 - set apart any part of the park for any specified purpose of public amusement or recreation, and permit the use thereof upon such terms and conditions as the board thinks fit;
 - appropriate any part of the park for camping sites or for parking places for vehicles for the convenience of persons using or visiting the park;
 - establish accommodation houses and other facilities in the park, and lease them; and
 - grant easements over any part of the park for any public purpose, or for the utilisation of water power for the generation of electricity.

national park. On the contrary, the offence provision (section 54) declared many 'consumptive' uses⁸¹⁶ of a national park to be offences if done without park board permission. But obtaining that permission was not an easy task when the Act was so heavily geared in favour of preservationist and recreational values and interests. As we noted above, the Act's provisions reflected the interests of the groups that had a major role in the design of the National Parks Act and whose nominees were guaranteed membership of the National Parks Authority, namely the Forest and Bird Society, Royal Society, and Federated Mountain Clubs.

The creation of Te Urewera National Park under the National Parks Act 1952, therefore, dramatically changed the context within which the peoples of Te Urewera exercised kaitiaki responsibilities over their ancestral lands, and used its resources, even though that land had passed into Crown ownership some years

816. A term used by officials at the time, evidently to include both uses for food and the taking of plants for a wider range of uses.

before. But compared with the public and private interests recognised and promoted by the National Parks Act, the failure to recognise use of a park's resources by local communities in accordance with their tikanga, is on the face of it incongruous.

The 1952 Act was replaced by the National Parks Act 1980, which remains in force today. The 1980 Act is the primary legislation that governs the administration of New Zealand's national parks. With only minor changes, the 1980 Act re-enacts the purposes and principles of the earlier Act. The ideological underpinnings of the national park system have therefore been constant since 1952. Thus, the 1980 Act has not altered the fundamental disjunction between the interests that are recognised and promoted by national parks and the interests of Maori communities in their ancestral lands. The 'national interest' that is served by national parks has never expressly included the promotion or protection of Maori values or interests. Instead, Maori interests in national parks are submerged in the mix of preservation, conservation, scientific, and recreational user interests that must be pursued and balanced by those responsible for the parks' administration.

The stated purposes of the 1980 Act, set out in section 4(1), are very similar to those of the 1952 Act. With the changes noted in italics, the 1980 Act is to have effect for:

the purpose of preserving in perpetuity as national parks, *for their intrinsic worth* and for the benefit, *use*, and enjoyment of the public, areas of New Zealand that contain scenery of such distinctive quality, *ecological systems*, or natural features so beautiful, unique, or *scientifically important* that their preservation is in the national interest. [Emphasis added.]

The five principles to be applied in the administration of national parks are virtually identical to those in the 1952 Act.⁸¹⁷

The National Parks Act 1980 is more detailed than the 1952 Act in its definition of conduct that constitutes an offence or needs to be authorised. Section 5 reinforces the preservationist tone of the Act by prohibiting any interference with indigenous flora or fauna in a national park unless prior permission, in writing, has been given by the Minister (see the sidebar opposite).

The fact that the Minister and director-general have a range of powers under the 1980 Act is because of the Act's transfer to the Department of Lands and Survey of the operational functions previously performed by park boards. The Minister and director-general became the repositories of the operational powers previously possessed by the park boards – but, in practice, many of their powers are delegated to senior departmental staff. Since 1987, and the creation of DOC, it is the

817. In the 1980 Act, the words 'flora and fauna' in the second and fifth principles have been changed to 'plants and animals', and the words 'seacoasts' and 'other natural features' have been added to the list in the fifth principle. See section 4(2)(a)–(e).

Section 5 of the National Parks Act 1980

5. Indigenous plants and animals to be preserved—(1) No person shall, without the prior written consent of the Minister, cut, destroy, or take, or purport to authorise any person to cut, destroy, or take, any plant or part of a plant that is indigenous to New Zealand and growing in a national park.

(2) No person shall, without the prior written consent of the Minister, disturb, trap, take, hunt, or kill, or purport to authorise any person to disturb, trap, take, hunt, or kill any animal that is indigenous to New Zealand and found within a national park.

(3) The Minister shall not give his consent under subsection (1) or subsection (2) of this section unless the act consented to is consistent with the management plan for the park.

Minister and director-general of conservation, and their department, that administer national parks under the 1980 Act.

Sections 41 and 42 of the 1980 Act set limits to the delegations of power that can be made by the Minister and director-general. Neither can delegate their powers to anyone outside the department, which means that responsibility for the administration of national parks is, by law, kept with DOC. This has implications for the extent to which the peoples of Te Urewera can be formally involved in the administration of the national park.

Section 60 of the 1980 Act is now the main provision that defines offences in a national park and it continues to outlaw many ‘consumptive’ uses of park resources, unless they have been authorised by the Minister. The Act confers on the Minister a range of particular powers very similar to those previously conferred on park boards by sections 28, 30, 31, and 32 of the 1952 Act (outlined above).⁸¹⁸

From the mid-1980s, the administration of national parks was affected by a complete restructuring of New Zealand’s conservation estate. The Conservation Act 1987 created DOC to take over the conservation functions previously exercised by a number of other agencies, including the Department of Lands and Survey, the New Zealand Forest Service, and the Wildlife Service. As part of the rationalisation, the new department took over responsibility for administering the National Parks Act 1980.⁸¹⁹ The primary functions of DOC under the 1987 Act centre on its advocacy and advancement of the conservation of all natural and historic

818. National Parks Act 1980, ss 49–51

819. Conservation Act 1987, sch 1

Section 60 of the National Parks Act 1980

60. Offences in parks—(1) Every person commits an offence against this Act who, without being authorised by the Minister (the proof of which shall be on the person charged) or by any bylaw made under this Act,—

(a) Causes or allows any animal owned by him or under his control to trespass on any park; or

(b) Takes any animal into or liberates any animal in any park; or

(d) Removes or wilfully damages any, or any part of, any plant, stone, mineral, gravel, kauri gum, antiquity, or relic in any park; or

(h) Takes or destroys or wilfully injures or in any manner disturbs or interferes with any native animal or the nest or eggs of any native animal in any park; or

(k) In any way interferes with or damages the natural or historic features of any park.

(4) Every person commits an offence against this Act who, without being authorised by the Minister (the proof of which shall be on the person charged),—

(a) Is in possession of any chainsaw or any firearm, trap, net, or other like object in a park; or

(b) Discharges any firearm in a park; or

(c) From outside a park, shoots at any animal or any other object or thing inside the park with any firearm.

Section 70 of the National Parks Act 1980

70. Penalty for offences—Every person who commits an offence against this Act for which no penalty is prescribed elsewhere in this Act is liable on summary conviction,—

(a) Where the offence was committed by an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$2,500, and where the offence is a continuing one, to a further fine not exceeding \$250 for every day on which the offence has continued:

(b) Where the offence was committed by a corporation, to a fine not exceeding \$25,000, and, where the offence is a continuing one to a further fine not exceeding \$2,500 for every day on which the offence has continued.

resources.⁸²⁰ ‘Conservation’ is defined in the Act to mean ‘the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.’⁸²¹

The new Act was, and remains, important because of a key provision, section 4, which requires that the Act be interpreted and administered so as ‘to give effect to the principles of the Treaty of Waitangi’. The effect of that ‘Treaty clause’ on the department’s administration of other Acts, including the National Parks Act 1980, was clarified by a 1995 decision of the Court of Appeal. It ruled that the Treaty clause in the Conservation Act requires the department to give effect to Treaty principles not only when it is administering that Act, but also when it is administering other legislation, provided that the other legislation is not itself inconsistent with Treaty principles.⁸²² The *Te Urewera National Park Management Plan, 1989–1999*, released in the wake of these changes, made reference to the Treaty – though in weaker terms than the 1987 Act: DOC ‘will have full regard to the Treaty of Waitangi and the traditional rights of the tangata whenua.’⁸²³ But the plan invoked the Treaty and traditional rights in the same breath – a positive sign for national park administration under DOC.

In 1990, the Conservation Law Reform Act amended the Conservation Act and the National Parks Act by further rationalising the administration of the conservation estate. This time, the changes were to the statutory bodies with advisory, policy, and planning functions, and to the policy and planning framework within which they operate. The 1990 amendments did not, however, affect the purposes and principles of national parks, as prescribed by the National Parks Act 1980, or the Treaty clause in the Conservation Act 1987.

The Crown maintained that claimants have given insufficient weight to the changes introduced since 1980 (mainly by the Conservation Act 1987) by which the tangata whenua of Te Urewera are now recognised as kaitiaki of the taonga of the area and are included in park planning processes and the administration of certain initiatives. Certainly, there has been a shift in the wording of policy and planning documents – both at the national level and for Te Urewera National Park – to recognise the relationship of Maori with Te Urewera National Park, and there has been more, and better quality, consultation about certain park management issues. But the changes that have accompanied the stated recognition of kaitiakitanga are essentially procedural, not substantive, because the governing legislation – the National Parks Act 1980 – has not been amended to include among its goals the protection and promotion of resident Maori communities’ interests in their ancestral lands. Instead, the Act’s goals remain focused on environmental

820. Conservation Act 1987, s 6

821. *Ibid*, s 2

822. *Ngai Tahu Maori Trust Board v Director-General of Conservation* [1995] 3 NZLR 553 (CA)

823. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 56 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 229)

preservation and conservation, and on the recreational uses of park lands by visitors, so that the now-recognised right of local Maori to be consulted about, and participate in, national park administration is also focused on those goals. The disjunction between national park values and Maori cultural values remains, but Maori are now included to a greater degree in the processes by which Te Urewera National Park is run. The inevitable result is that, for the resident communities, the changes in park management processes and style still do not address their fundamental concern – that their very existence, their culture, and future welfare are not central to, or even part of, the philosophy of Te Urewera National Park. Thus, the changes that have been made to the processes and terminology employed by park management, while a welcome advance on the less inclusive practices of the past, are experienced by the peoples of Te Urewera as merely improvements in a regime that failed to consider their needs and interests.

16.8.3 How has the preservationist model of national parks administration been applied to Te Urewera National Park?

We turn here to examine the various ways that the preservationist ethos, and the legislation embodying it, has been reflected in the policies that guide the administration of parks at national and local level. We consider the ramifications of the preservationist approach for resident Maori communities, as seen in the priorities of park management plans, including the treatment of the history of Te Urewera peoples and their lands. We look briefly at the kinds of international discussions that were taking place about the impact of national parks or protected areas on indigenous peoples (which New Zealand officials were well aware of) and at their significance for policy as it developed generally in New Zealand, and specifically in Te Urewera.

16.8.3.1 Policy statements and master plans

The National Parks Act 1952, as we have seen, laid out the purposes and the principles to be observed in the administration of national parks. It established a two-tier administrative framework. A central governance body – the National Parks Authority – performed advisory and policy functions relating to all parks. Until 1980, individual park boards managed and administered each park. The National Parks Authority was empowered to issue general policy statements to guide the park boards and departmental officers with responsibilities for the park, and issued two statements, in 1964 and 1978. From 1976, park boards (and their successors) were required to issue a ‘master plan’ which identified the resources of the park and its values. Following these guidelines, three plans have been released for Te Urewera National Park, in 1976 (the Urewera National Park Board), 1989 (the East Coast National Parks and Reserves Board), and 2003 (the East Coast Bay of Plenty Conservation Board).

Although the National Parks Authority issued its first *General Policy* in 1964, it was not until the second policy was issued over a decade later, in 1978, that many of the key guidelines for national parks administration were set in place. In accordance with the Act, the guidelines emphasised preservation. The 1964 statement

was very brief and not directive. It covered a number of general matters about park administration (such as the type of signposting required), and set out general aspirations for park boards (for example, the destruction of noxious animals, and exotic plants), but little in the way of detail. It made no mention at all of Maori or their customary uses of national park lands.⁸²⁴ In contrast, the 1978 statement provided more direction about how parks were to be managed. The statement emphasised the importance of preserving parks in their natural state, protecting them from 'outside influences', and maintaining 'special values of quietness, isolation, natural beauty, and scenic grandeur'.⁸²⁵ Key policies were the extermination of introduced flora and fauna; giving maximum protection to native flora and fauna; promoting soil, water, and forest conservation values; educating the public in these values; prosecution of those who offended against provisions of the Act; and bylaws relating to safety and preservation of flora and fauna. A further key policy focused on education: the experience of visiting a park could be 'greatly enriched by an understanding of its natural and human history and particular character'. The authority recommended four types of publications, among them handbooks and special publications on the biological and scientific aspects of the park's natural history.⁸²⁶ Like its predecessor, however, the statement made no mention of Maori or their customary uses of the national park and its resources.

The 1983 general policy statement of the new National Parks and Reserves Authority (issued after the passing of the National Parks Act 1980) was significant in a number of ways. It contained the first specific reference to the relationship of Maori with national park lands. When the statement was in its final draft stage, the Director-General of Lands had consulted three Maori leaders about it and, at their suggestion, recommended to the Minister that the National Parks and Reserves Authority make three changes to it, which were made. The amendments were concerned with fostering consultative procedures with Maori groups with historical or spiritual ties to national park land, providing for traditional uses of native plants and animals, and drawing attention in park interpretative material to historic Maori place names.⁸²⁷

The 1983 policy stated that the scope for public access would be governed by the 'particular make-up of each park', but pointed out that a balance should be struck between preservation of areas 'integral to New Zealand's heritage' and provision of optimum public access and enjoyment.⁸²⁸ Similarly, in the section on introduced plants and animals, it was stated that commercial and recreational hunting would

824. National Parks Authority, *General Policy for National Parks* (1964) (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 1249–1254)

825. National Parks Authority, *General Policy for National Parks* (1978), p 3.1 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1262)

826. *Ibid*, p 6.1 (p 1269)

827. National Parks and Reserves Authority, *General Policy for National Parks* (Wellington: Department of Lands and Survey, 1983), pp 8, 20, 33 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 1287, 1293, 1299)

828. *Ibid*, p 6 (p 1286)

be encouraged by methods ‘most appropriate to the individual park or situation.’⁸²⁹ And management plans would ‘necessarily differ to reflect the different nature and use of the various parks.’⁸³⁰ There was consistent recognition, in other words, of the differences between parks, and of the need to accommodate them; one size did not fit all. This was particularly evident in the section on preparation of management plans, which specified that management objectives should ‘establish the philosophy to be adopted *in the particular park* towards balancing preservation and use’, including an explanation of the range of uses considered appropriate for the park (emphasis added).⁸³¹ The administrators of Te Urewera National Park might have taken from this that they could allow for the distinctive position of Maori communities living within or adjacent to the park, in particular their customary uses of park lands, without apology. But this was not so. Even if administrators had thought of making such provision in management plans, that possibility was excluded by the 1952 and 1980 Acts. The law was clear that national parks were for the preservation of everything indigenous – except people.

The provision for specific park management plans in the 1983 general policy statement followed the requirements of the new National Parks Act 1980. Under the Act, management plans for each national park are required to set out policies on all matters affecting a park’s administration, so that the departmental officers responsible for its day-to-day running can rely on it for instruction and guidance. The concept of a park ‘master plan’ originated in the United States and was adapted to New Zealand’s circumstances. There had been no provision for individual park boards to develop major policy plans under the National Parks Act 1952. In the mid-1960s, however, the National Parks Authority decided to follow the American model requiring park boards to develop individual plans for ‘preservation and use’, two key principles which had to be balanced against each other.⁸³² In Te Urewera, from the late 1960s, the park board worked closely with department staff and contractors on a new-style management plan for the park, which was finalised in 1976.

Although Te Urewera was not the first park to develop such a plan, its ‘master plan’ came to be seen as a ‘test case’ for park planning in New Zealand because it was developed by a professionally qualified planning team.⁸³³ The plan went through a number of stages of development, from 1969 – when the first ‘master planning team’ was appointed – to the final finishing touches seven years later. When the plan was finalised and approved by the National Parks Authority in

829. National Parks and Reserves Authority, *General Policy for National Parks* (1983), p 23 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1294)

830. *Ibid*, p 59 (p 1312)

831. *Ibid*, p 61 (p 1313)

832. R W Cleland, ‘Master Planning for the Preservation and Use of New Zealand National Parks’, presented to the Conference of Commissioners of Crown Lands and Superintendents of Land Development, 13–15 October 1964 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 264)

833. Campbell, ‘Te Urewera National Park’ (doc A60), p 105; Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 265

1976, it stated that it was 'not a comprehensive blueprint for the future but a general statement of management objectives and policies.'⁸³⁴

The 1976 Master Plan's main objectives for park management were firmly located within the National Parks Authority's policy framework of protecting the ecology and retaining the wilderness character of the park. The plan stressed some of the defining characteristics of Te Urewera National Park: its very limited roading, relative remoteness from large urban centres, topography ('generally steep to precipitous'), size, and the extent of its afforestation ('approximately 90 per cent'⁸³⁵). These factors contributed to the view, expressed very strongly in the plan, that the essential character of the park is its untouched appearance. The scope of the plan was broad: it covered policies and proposals for park boundaries, access, visitor facilities, park administration, commercial operations, hydroelectric power generation, visitor safety, and research, survey, and planning data. The wilderness character of the park was stressed throughout:

Much of the Park's present attraction lies in its size and the seemingly impenetrable wilderness of the Urewera. The fact that the visitor from either Whakatane or Wairoa has to go around the Park adds to this feeling of vastness and much would be lost if it were bisected by further roads.

It is also abundantly evident that it is this same wilderness character that takes most people to Lake Waikaremoana, the main attraction being the freedom from development, lack of commercialism, the lake's continuous surround of native bush and its, as yet unspoilt shoreline and tranquil atmosphere making it unique among lakes of comparable size. . . .

It is therefore apparent that the preservation and retention of the wilderness character of Lake Waikaremoana is of primary importance.

It . . . seems that much of the Park's present attraction comes from the fact that it appears to be a vast impenetrable wilderness completely unspoilt and unmodified by man.

The preservation of the Urewera's wilderness character is a fundamental requirement for its continued use and enjoyment as an unimpaired botanical area.⁸³⁶

The park board's use of the word 'wilderness' to describe the park's character was clearly not literal: it was well aware of the Maori occupation of Te Urewera since 'about AD 1350' (to use its words), of the impact of engineering works and recreational use on the park's environment, and of introduced animals and plants

834. Urewera National Park Board, *Urewera National Park Management Plan, 1976* (Hamilton: Department of Lands and Survey, 1976), p1 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1368)

835. *Ibid*, p 5 (p 1372)

836. *Ibid*, pp 10, 11, 13 (pp 1375, 1376, 1378)

on the native flora and fauna.⁸³⁷ But it aimed to enhance the features of the park that made it appear ‘unspoilt and unmodified by man.’ Throughout the plan, the park’s ‘wilderness’ character was relied on to justify the board’s emphasis on preserving the ‘total environment’⁸³⁸ and limiting development to ‘essential facilities’ in a small number of locations.⁸³⁹

In envisaging the entire park as a wilderness area, the board was somewhat at odds with the approach of the 1952 National Parks Act, and with the National Parks Authority policy. The Act did provide for ‘wilderness areas’, but as one of two kinds of specially protected zones that could be set apart in a national park. ‘Wilderness areas’ could be designated by a park board, with the consent of the National Parks Authority, and were to ‘be kept and maintained in a state of nature.’ This meant that no buildings were to be erected there, no horses, other animals, or vehicles were to be taken there, and no roads, tracks, or trails were to be constructed, except for foot tracks ‘for the use of persons entering the area on foot as the Board deems necessary or desirable’ (section 34). ‘Special areas’ could also be set apart in a national park, and were protected to an even greater extent from human intervention (sections 11 and 12).

The National Parks Authority’s policy envisaged park boards preparing zoning maps that utilised up to four zones, two from the Act – scientific areas (equivalent to the Act’s ‘special areas’) and wilderness areas – and two others that the authority added, namely, natural environment areas, and development areas. The Department of Lands and Survey’s planning team report ‘Urewera National Park management plan’ (1970) was less than complimentary of the zoning concept, which it thought might quickly be overtaken by changing public recreational uses. And labelling an area as a ‘development area’ might encourage developers and facilities which could have taken place elsewhere, or not at all, had not the zoning suggested it. Above all, zoning seemed irrelevant in Te Urewera National Park because ‘the entire area has always been considered de facto wilderness and it is desirable that it should remain so without drawing imaginary lines of purity within the Park.’⁸⁴⁰ While the 1976 plan made no explicit criticism of the authority’s preference for zoning, it did not adopt the practice. Instead, the plan declared that the park board’s policies were ‘aimed at achieving an acceptable balance between preservation and use.’⁸⁴¹ The park board designated a small number of ‘facilities areas’ instead of creating zones, but strictly limited the design and number of permitted facilities.⁸⁴²

837. Ibid, pp 8, 13 (pp 1373, 1378)

838. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, p 11 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1376)

839. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, p 22

840. Department of Lands and Survey, *Planning Team Report: Urewera National Park Management Plan* (Hamilton: Department of Lands and Survey, 1970), pp 24–25 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), pp 1343–1344)

841. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, p 14 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1379)

842. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, pp 22–29

It was in fact admitted in the plan that not all the park could be retained as 'primeval wilderness' and that some areas must be developed 'to obtain a reasonable level of visitor use and appreciation'. Thus further objectives were outlined for public access, recreational use, and visitor services. Included also was the goal of interpreting the Maori history of the area in order to make the significance of the park meaningful to visitors.⁸⁴³ No specific policies were introduced for Maori (other than the board's own policy of 'maintain[ing] the closest possible liaison with the Maori communities within and bordering upon the Park'. The two exceptions related to the taking of plants for customary uses, and use of horses, which we consider below.

Overall, the 1976 plan emphasised the need to protect the ecology of the park, but balanced with the need to provide 'sensitively' for the large number of visitors. A closely associated concern was the permanent boundaries 'which will ensure the independence and protection of the Park as a botanical entity, the stability of its ecosystems, the preservation of its aesthetic character and an appropriate degree of access to its users'.⁸⁴⁴ Criteria for adding land to the park included the importance of forming a more convenient or more easily administered boundary; 'contiguous areas or enclaves' were particularly suited to this purpose. Among lands affected by these proposals were Maori lands. (In 1970, before the Lake Waikaremoana lease was settled, the Department of Lands and Survey Planning Team report had recommended 'Ideally the lake bed together with all other Maori enclaves in the Park should be purchased by the Crown for inclusion in the Park but, should the owners so wish, the Crown should accept a long term lease with perpetual rights of renewal'.⁸⁴⁵)

It is easy to see why Maori communities that resided within and adjacent to the park struggled to see a place for themselves in this first plan. The heavy emphasis on the park's wilderness character did not sit comfortably with the idea that such communities had inhabited the region for centuries and might continue to have an active and visible presence in the park. Maori customary uses of the park's resources were not among those listed in the National Parks Act as being generally permissible in a national park, but were in fact among those listed as being generally *not* permissible.

The local peoples' continuing uses of the 'wilderness' park posed a dilemma for the park board and staff. Their responses were inconsistent and changeable. As we explain later in the chapter, until the 1980s, one strand of park policy reflected a view that it was inevitable, in time, that there would be a decline in Maori customary uses of the park, which would further enhance its wilderness character. This view was exemplified in the park board's approach to the gathering of native plants, especially pikopiko, and is implicit in the 1976 park plan. The plan stated

843. Ibid, pp 11–17 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 1376–1382)

844. Ibid, pp 1, 15 (pp 1368, 1380)

845. Department of Lands and Survey, *Planning Team Report*, p 16 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1339)

that ‘Today, economic pressures are forcing more and more Tuhoe to live away from their lands but the bond which has been forged by history still remains,’⁸⁴⁶ and went on to record the park board’s interest in acquiring ‘contiguous areas or enclaves’ (that is, Maori land) to add to the park. If that aim were successful, the local communities’ presence in and around the park and their uses of its resources would surely decline. At the same time, however, other strands of the park’s policies, such as recognition of Maori reliance on horses, and park staff practice, reveal that the board understood that local peoples’ uses of park resources were essential elements in their subsistence way of life, and that it was willing to facilitate their continuation.

Overall, however, the 1976 park management plan was an unfortunate document because it generally failed to take proper account of the interests of those Maori communities who were the park’s closest neighbours. It made no attempt to ameliorate the sense of alienation Maori felt from the park. And 13 years was a long time to wait for the next management plan. They were, however, years of great change in New Zealand, which saw the first real recognition of Maori rights under the Treaty. This in turn would lead to a different administrative approach to national park plans in general, and in Te Urewera specifically.

The 1989 Te Urewera management plan made more provision for the interests of Maori, particularly their historical relationship with park lands. It begins with an unedited oral history of the creation of Lake Waikaremoana, as Haumapuhia, punished by her father, Maahu-tapoa-nui, for her disrespect, thrashed about in the stream, calling on the gods for help. Her human form became a taniwha and as she struggled to escape to the ocean she formed the lake. Particular reference is made on the following page to the name of the park, and impending action to change its name to ‘Te Urewera National Park’, given the strong feelings of the tangata whenua to call the park ‘by its correct name.’⁸⁴⁷ (We consider the long delay before the name was changed in a sidebar below.) Submissions on the main issues of the draft plan were headed by ‘the need to recognize the cultural importance of the park and the traditional rights of the tangata whenua.’ In the ‘Natural Resources’ section, a sub-section headed ‘Cultural Significance of Native Vegetation and Flora’ stated that Urewera forests ‘were an integral part of the traditional life and culture of the local Maori communities’, acknowledged the importance of various forest species, and concluded that ‘traditional uses of the remaining forest are still significant among the local Maori people of Te Urewera. In places they are associated with areas of the National Park.’⁸⁴⁸ Its section on ‘Relationship with local communities’ acknowledged the park’s ‘immediate neighbours’, the local Maori communities adjacent to, and in the ‘Maori enclaves’ within, the park:

846. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, p 9 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p1374)

847. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, pp i-ii (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), pp 1384–1385)

848. *Ibid*, pp iv, 17, 20 (pp 1387, 1390, 1392)

It is recognised that these communities with their distinctive lifestyle and attitudes to the forest will continue to live adjacent to the park. Their life-style and livelihood is substantially based on the Urewera forest resource . . . Consideration of local social and economic impacts is an important element in park administration. Such issues include interpretation of Maori culture, access across Maori lands, protection of archaeological and historic sites and wahi tapu, and the recognition of local life-styles and traditional activities.⁸⁴⁹

We look in a later section at how far these stated principles led to change on the ground.

The last park management plan specific to Te Urewera was issued in 2003. Its stated purpose is to 'guide the Department of Conservation in the administration and management of Te Urewera National Park in accordance with legislation.'⁸⁵⁰ Preservation of 'scenery, ecological systems, native plants and animals and natural features as far as possible in their natural state' remains the first management objective, alongside preservation of 'sites and objects of archaeological and historical interest as far as possible in their existing state'. A new policy spells out the need to involve tangata whenua in managing park resources, ensuring ongoing communication and consultation with tangata whenua about park management, and recognising 'the role of tangata whenua as kaitiaki of nga taonga o Te Urewera.'⁸⁵¹ But despite this positive development, the Tuhoe voice that was evident in the 1989 plan has gone. Instead, the 2003 plan acknowledges in detached language that 'Te Urewera is of particular significance to tangata whenua who have a close association with the park' and that they 'are living on the boundaries of, or on privately owned enclaves surrounded by the park and retain knowledge of the area important for management of the park.'⁸⁵²

Statements such as this in the 2003 plan highlight the disjunction between the Conservation Act's requirement that DOC give effect to Treaty principles and the realities of running a national park under the National Parks Act 1980. The plan makes a number of references to the requirement to give effect to Treaty principles. But, by its policy statements, it gives a very limited interpretation to that requirement. In all but two instances, the bare message in the plan is that park staff are to consult Maori on issues of importance and develop and maintain effective relationships with them. The two exceptions relate to situations involving the protection and interpretation of sites of significance to Maori and the removal of indigenous flora for traditional purposes. In the first situation, the 2003 plan states that Maori involvement in decision-making should be sought. In the second situation, it is envisaged that a process involving Maori and the department may need to be established. Given that the role of Maori in park affairs has been limited to these two narrow situations, the plan's stated intention 'to recognise the

849. Ibid, p 32 (p1398)

850. Department of Conservation, *Te Urewera National Park Management Plan*, p 5

851. Ibid, pp 32, 36–37

852. Ibid, pp 31, 34

From 'Urewera National Park' (1954) to 'Te Urewera National Park' (2000)

In August 1953, the National Parks Authority decided that local Maori leaders should be asked to suggest a name for the proposed national park. The Authority's chair, DM Greig (Director-General of Lands), thought 'a tactical advantage might accrue if the question were deferred and as a gesture referred to the Maoris for an expression of opinion. Possibly the Maori people had some historical name that might be of great moment.'¹ Tuhoe were consulted at Ruatahuna in March 1954 and, according to the Director-General, they decided 'to adopt the name "Urewera."² Urewera National Park was duly established in June 1954.³

In December 1973, Tamaroa Nikora, a member of the Urewera National Park Board, brought to its attention the wish of the Tuhoe-Waikaremoana Maori Trust Board that the park's name be corrected to 'Te Urewera National Park'. The board forwarded to the National Parks Authority a letter from Mr Nikora explaining the history of Te Urewera, together with a recommendation that the necessary steps be taken to adopt 'Te Urewera National Park' as the official name of the Park.⁴

Tuhoe concern about the park's name was raised again in July 1987, at a meeting between the Tuhoe-Waikaremoana Maori Trust Board and the East Coast National Parks and Reserves Board. Mr Tait, a Trust Board representative, summed up the

1. National Parks Authority, minutes, 19 August 1953 (Cecilia Edwards, comp, supporting papers to 'Selected Issues: Te Urewera National Park; Thematic Issue 33', 2 vols, various dates (doc L12(a)), vol 1, p 48)

2. Director General of Lands and Chairman of National Parks Authority to AG Harper, Secretary for Internal Affairs, 1/4/1954 (SKL Campbell, comp, supporting papers to 'Urewera Overview, Project Four: Te Urewera National Park, 1952-75', 3 vols, various dates (doc A60(a)), vol 1, p107)

3. 'Lands in South Auckland and Gisborne Land Districts Declared to be a National Park', 28 July 1954, *New Zealand Gazette*, 1954, no 46, pp 1211-1212

4. Urewera National Park Board, minutes of board meeting on 11-12 December 1973 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 429)

role of tangata whenua as kaitiaki of nga taonga o 'Te Urewera' seems completely incongruous.⁸⁵³

Our discussion of policy statements and park plans concludes with the latest *General Policy for National Parks*, issued by the New Zealand Conservation Authority in May 2005, having been in the final stages of preparation when the Tribunal's hearings concluded. Until 2005, the 1983 *General Policy* had continued in force, for it was adopted by the Conservation Authority early in its existence.

853. Department of Conservation, *Te Urewera National Park Management Plan*, p 37

matter: 'The name should be 'Te Urewera' – for knowledge of people, history and euphony'.⁵ The East Coast National Parks and Reserves Board supported the change and resolved to ask DOC 'to take the necessary steps' to achieve it.⁶ In the 1989–99 management plan for the national park, it is referred to as 'Te Urewera' and a statement in the plan's opening pages promises that 'action will be taken to officially change the park name . . . because the tangata whenua feel strongly about the need to call the park by its correct name'.⁷

Ten years later, in late 1999, the New Zealand Conservation Authority chairman wrote to the Minister of Conservation asking that the name of the park be changed and saying that the East Coast Hawke's Bay Conservation Board believed the time was right. The Minister agreed and the change was gazetted on 1 June 2000.⁸ Coombes was unable to discover why the earlier requests had met with inaction. He commented:

Twenty seven years had passed since the UNP Board had first resolved to change the name. Two letters; nearly three decades. It should not be surprising that tangata whenua complain that structures for park administration have been alienating, imperceptible and remote.⁹

5. East Coast National Parks and Reserves Board, minutes of meeting to hear Tuhoe-Waikaremoana Maori Trust Board submissions on the Urewera National Park Management Plan, 15–17 July 1987 (Brad Coombes, comp, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"', various dates (doc A121(a)), p253)

6. East Coast National Parks and Reserves Board, minutes, 17–18 September 1987 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p1046)

7. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999* (Rotorua: Department of Conservation, 1989), p i

8. Brad Coombes, 'Preserving a "Great National Playing Area" – Conservation Conflicts and Contradictions in Te Urewera, 1954–1954' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), pp 158–159

9. *Ibid*, p 159

The new general policy is notable for including, early in the document, policies on the 'Treaty of Waitangi responsibilities' of park administrators. The introduction to the policies explains that 'Effective partnerships with tangata whenua can enhance the preservation of natural and historical and cultural heritage in national parks.' But while it then gives an account of the responsibilities of kaitiaki, it gives no explanation of the meaning of the Treaty principles. Instead, a list is given of five principles recognised by the Government in 1989: the principles of government, self-management, equality, reasonable cooperation, and redress. This is followed by a statement that can be described as opaque at its best: 'The way these

principles are applied will depend on the particular circumstances of each case, including the statutory conservation framework and the significance to tangata whenua of the land, resource or taonga in question.⁸⁵⁴

The 10 policies that are then stated make plain that the Treaty responsibilities of those involved in the administration of national parks centre on the need to develop and maintain positive relationships with Maori. Some policies give guidance on how this can be done, including by forming partnerships ‘to recognise mana and to support national parks’. Three policies direct that Maori be consulted in certain circumstances: namely, in the development of planning documents, and about proposals affecting, and public information on, ‘places or resources within national parks of spiritual or historical and cultural significance’. One policy identifies the circumstances in which customary use of traditional materials may be allowed. The very few specific references to tangata whenua interests elsewhere in the *General Policy* show that the 10 policies on Treaty of Waitangi responsibilities are intended to be applied across all aspects of national park administration.

In short, while the various general policies and Te Urewera-specific national park plans have shown signs of positive development in recent times, the Treaty relationship aspired to in the Conservation Act 1987 has yet to be fulfilled.

16.8.3.2 An alternative sustainable use model: indigenous peoples and national parks – official awareness of overseas developments during the 1970s and 1980s

The general preservationist approach to national parks management adopted in the legislation, and further reflected in national policies and Te Urewera park management plans, is usefully contrasted with the way national parks administration was discussed internationally in the same period. This developing international context in part explains why attitudes to Maori relationships with park lands and resources, and Maori customary uses, had begun to change by the 1980s. New Zealand was out of step with such developments at first, but change would come both from exposure to overseas approaches, and from political responses at home to sustained Maori protest from the early 1970s against the monocultural nature of many institutions, and against the lack of Crown response to deeply held grievances. The early 1980s saw early Waitangi Tribunal reports upholding Maori rights to resources, followed by the grant of historical jurisdiction to the Tribunal by 1985, and key court judgments upholding and articulating Treaty rights.

New Zealand park administrators became aware from the mid-1970s of different approaches around the globe to recognising the relationship between indigenous peoples and park lands and resources through international exchanges between Lands and Survey staff and board members, and their overseas counterparts, notably at major conferences.⁸⁵⁵ In 1982, for instance, the Director-General of Lands attended the World National Parks Congress and his department distributed his report, with key Congress documents, to Lands and Survey offices,

854. Department of Conservation, *Conservation General Policy*, May 2005, p15

855. See Edwards, ‘Te Urewera National Park’ (doc L12), pp13–17, 31–35.

ranger stations, and park headquarters.⁸⁵⁶ And while park administrators emphasised Te Urewera National Park's 'wilderness' character from the outset, tending to minimise the relevance of any continuing relationship between the peoples of Te Urewera and the park, overseas developments were challenging the preservationist model. There was considerable recognition of its limits as a means of protecting areas in countries where there were long-established systems to manage resources on which 'traditional peoples' were dependant.⁸⁵⁷ At first, such debates seem not to have been considered relevant to New Zealand circumstances, but eventually they contributed to a re-evaluation of the strict preservationist policy emphasis and a move towards acceptance of some limited customary usage of park resources.

An important theme of such conferences was acknowledgement of the dependence on park resources of indigenous peoples who lived in or adjacent to protected areas in their various countries, and of indigenous rights to involvement in decision-making about such lands. Several international conferences, such as the South Pacific Conference on National Parks and Reserves in 1975 and the World National Parks Congress in 1982, made extensive recommendations and declarations about indigenous people and national parks.

The 1975 conference, held in Wellington, was attended by officials from throughout the South Pacific including New Zealand. It recommended that governments introduce mechanisms so that indigenous people might retain ownership of, and rights to, their land while bringing that land under the protection of a national park or reserve, so long as those rights were not in conflict with the purposes for which the land was reserved. And people occupying lands surrounding national parks and reserves should 'be involved to the fullest extent possible in their establishment, protection and operation.'⁸⁵⁸ The conference, we note, included a field trip to Te Urewera National Park, singled out as retaining 'most strongly the influence of the original Maori inhabitants.'⁸⁵⁹ This was an interesting acknowledgement, given the grudging tone of the 1976 park management plan.

The conference was notable for the keynote address by an American ecologist at the International Union for the Conservation of Nature (IUCN), Dr Raymond Dasmann, who challenged the principle that national parks and people were incompatible.⁸⁶⁰ Dasmann had suggested that indigenous people were 'ecosystem people' in contrast to 'biosphere people' (that is, people whose lives 'were tied in with the global technological civilisation').⁸⁶¹ Because ecosystem people were 'totally dependent, or largely so, on the animals and plants of a particular area

856. MJ McConnell to commissioners of Crown lands, 21 December 1982, with enclosures (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 555-571)

857. See, for instance, World National Parks Congress, recommendations, October 1982 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 571).

858. Department of Lands and Survey, *Proceedings of the South Pacific Conference on National Parks and Reserves* (Wellington: Department of Lands and Survey, 1975), pp 61-62 (Edwards, 'Te Urewera National Park' (doc L12), pp 16-17)

859. *Ibid*, p v (pp 14-15)

860. Park, 'Effective Exclusion?' (Wai 262 RO1, doc K4), p 332

861. *Ibid*

[they] must learn some reasonable balance', that is, they had learned over centuries to develop a working relationship with the species surrounding them.⁸⁶² At the conference, Dasmann developed the point:

Biosphere people create national parks. Ecosystem people have always lived in the equivalent of a national park. It is the kind of country that ecosystem people have always protected that biosphere people want to have formally reserved and safe-guarded. But, of course, first the ecosystem people must be removed – or at least that has been the prevailing custom.⁸⁶³

This was a direct invitation to officials to confront their own assumptions about national parks, and to understand that national parks might mean different things to different people. Wherever national parks were created, Dasmann said, their protection 'needs to be coordinated with the people who occupy the surrounding lands. Those who are most affected by the presence of a national park must fully share in its benefits, financial or other. They must become the protectors of the park.'⁸⁶⁴ Edwards suggested that: 'Delegates of western nations [including New Zealand] tended to favour preservation rather than use of park resources, whereas small island states acknowledged that they would have difficulties preventing local people from harvesting certain resources from their national parks.'⁸⁶⁵

In 1982, the third World National Parks Congress, held in Bali, issued a declaration calling on all governments to take 'fundamental actions.'⁸⁶⁶ Among these actions were appeals to 'recognise the economic, cultural and political contexts of protected areas', and to increase local support for protected areas through a range of measures. Measures specified included 'complementary development schemes adjacent to the protected area and, where compatible with the protected area's objectives, access to resources.'⁸⁶⁷ The Congress also made several recommendations regarding 'protected areas and traditional societies'; recording its acknowledgement of the 'wise stewardship' by traditional societies of areas and environ-

862. Raymond F Dasmann, *Wildlife Biology* (New York: Wiley, 1964) (Park, 'Effective Exclusion?' (Wai 262 ROI, doc K4), p 332)

863. Raymond F Dasmann, 'National Parks, Nature Conservation and Future Primitive', *Proceedings of the South Pacific Conference on National Parks and Reserves* (Wellington: Department of Lands and Survey, 1975) (Park, 'Effective Exclusion?' (Wai 262 ROI, doc K4), p 332)

864. Notes from Dr Raymond F Dasmann, 'National Parks, Nature Conservation and "Future Primitive"', *Proceedings of the South Pacific Conference on National Parks and Reserves* (Wellington: Department of Lands and Survey, 1975), p 95

865. Edwards, 'Te Urewera National Park' (doc L12), p 15

866. Participants from 68 countries attended, as well as representatives from bodies such as the World Bank, UNESCO, and the World Wildlife Fund. See the director-general's report on the World National Parks Congress, November 1982 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 559).

867. Declaration of the World National Congress, Bali, Indonesia, 11–22 October 1982 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 558). Note that the title of the congress (as it was ultimately called) referred to the third time the world National Parks conference had been held, not to national parks in the 'third world' – though Indonesia had been chosen because organisers wanted to hold the conference in a developing country.

World National Parks Congress Meeting

The World National Parks Congress meeting in Bali, Indonesia, October 1982:

- Reaffirms the rights of traditional societies to social, economic, cultural and spiritual self-determination;
- Reaffirms further that traditional peoples everywhere have a right to participate in decisions affecting the land and the natural resources on which they depend;
- Recommends that those responsible at every level of protected area research, planning, management and education fully investigate and utilise the traditional wisdom of communities affected by conservation measures.

ments whose protection was now sought, and the threat of alienation of lands or resources to outsiders which they now faced (see the sidebar above).⁸⁶⁸ In fact, as the Director-General of Lands recorded in his subsequent report, the third conference marked an evolution in national park themes; it saw protected areas 'as an integrated part of wise resource use in the concept of sustainable development.'⁸⁶⁹

Delegates from 'developing' nations and several prominent speakers from international conservation bodies such as the ICUN argued for recognising human needs and moving away from 'strict preservation' policies to allowing some sustainable development. Delegates from the United States and Canada, however, upheld protectionist policies.⁸⁷⁰ The director-general of the New Zealand Department of Lands and Survey offered a compromise (yet within a preservationist framework) in the paper he delivered to the Congress:

while the ideal national park is one in public ownership and management with only non-consumptive uses, if that ideal is not capable of achievement, then the most constructive compromise should be sought seeking maximum preservation compatible with economic and social realities.⁸⁷¹

Yet, the director-general thought that the response of the North American delegates (preservation without development) was also appropriate for New Zealand,

868. World National Parks Congress, 'Recommendations of the World National Parks Congress' (recommendations for consideration, World National Parks Congress: Bali, 1982), sec 9 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 571)

869. PHC Lucas, 'The World National Parks Congress 1982' (report on third World National Parks Congress, November 1982), p 7 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 566)

870. Lucas, 'The World National Parks Congress 1982', p 2 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 561)

871. Ibid

while the demand for sustainable development (or at least sustainable use of some of the resources of the park) was suitable to 'third world' countries given the 'realities in their situation.'⁸⁷²

Still, the director-general's compromise represented some movement in the New Zealand position since the mid- to late 1970s. Edwards noted that New Zealand officials did not seem to regard the recommendations of the 1975 conference as applying to New Zealand, nor as a challenge to the policy framework for managing New Zealand parks.⁸⁷³ Rather such recommendations were considered appropriate to the specific needs of the 'developing' world, including the smaller South Pacific territories and nations, where indigenous people were struggling to survive. The priorities of New Zealand park policy-makers were underlined in 1978 at a major national gathering, the National Parks Authority Silver Jubilee Conference, held at Lincoln, to discuss possible reforms of the national park system. The relationship between Maori and parks was not included among the six major themes discussed at the conference, nor does it seem that any Maori organisations were invited.⁸⁷⁴

By 1985, when the third South Pacific National Parks and Reserves Conference was held in Apia, an explicit shift away from the strict preservationist national policy of the time had occurred. Lands and Survey staff delivered a paper at the conference on a 'New Zealand Case Study: Traditional Rights and Protected Areas' (the title itself is telling) which stressed the benefits of the Maori system of conservation through tapu and rahui. It cited with approval a 1981 paper which argued that customary ownership of resources should be seen 'not as a barrier to conservation but as a benefit'. Similarly, conservation through sustainable use of resources in a formal protected area was only a problem if a 'strict preservationist attitude' to plants and animals was adopted.⁸⁷⁵ The authors recognised the need for further development that could:

lead to greater understanding between New Zealanders of different cultural backgrounds and, in turn, could mean less resistance to the traditional Maori rights to flax, totara and other plants and animals which under strict conservation approach would be totally prohibited.⁸⁷⁶

872. Lucas, 'The World National Parks Congress 1982', p3 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p562)

873. Edwards, 'Te Urewera National Park' (doc L12), pp16, 33

874. Government Caucus Committee Report, 'Review of the Administrative Structure of National Parks and Reserves administered by the Department of Lands and Survey', July 1979, pp31-33 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp1215-1217)

875. Department of Lands and Survey, *New Zealand Case Study: Traditional Rights and Protected Areas* (Wellington: Department of Lands and Survey, 1985) (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p1144). The 1981 paper cited was by Lucas, Gorio, and Poai; it had been presented to the South Pacific commission: see PHC Lucas, Sylvanus Gorio, and Kalati Poai, *Parks and Reserves in the South Pacific* (Noumea: South Pacific Regional Environment Programme, 1981).

876. Department of Lands and Survey, *New Zealand Case Study*, p9 (Edwards, 'Te Urewera National Park' (doc L12), p35)

This was very different language, reflecting awareness both of overseas approaches to sustainable use, and of the ‘Maori renaissance’ (the authors’ term) and shifting Government policy at home.

Te Urewera reappeared in the paper as an example of a more flexible approach to Maori traditional rights (including ‘usufruct’ rights). Maori had retained ownership of the lakebed of Lake Waikaremoana ‘the focal point of the Urewera National Park’, and were represented in the management of the park (and the leased lakebed) as members of the park board. ‘Historic practices’ had also been preserved in the park, where Maori were able to gather ‘succulent fronds’ of pikopiko, to use horses to access their lands within the park, and for a tourist operation (run by Te Rehuwai Safaris).⁸⁷⁷ Yet, the paper noted that further development of innovative strategies was needed ‘to recognise the traditional love the Maori peoples have for their land’ and to promote greater tolerance in the wider New Zealand public of customary usage of parks, and ‘the reliance of Maori people on conservation.’⁸⁷⁸

Officials had now come to see the exercise of traditional rights within parks as an important issue, Edwards suggested, but their thinking had ‘not yet developed beyond the mechanisms provided for under the legislation of that time.’⁸⁷⁹ The limits to change were evident also in the community-based research of Stokes, Milroy, and Melbourne at this time, which recorded widespread community dissatisfaction with the way Te Urewera National Park was being managed, including people’s alienation from the management of the park and the restrictions and general permit culture the park had imposed on their customary uses.⁸⁸⁰ We turn to these matters next.

16.8.3.3 Maori and the preservation of their history in a ‘wilderness’ park – a romantic past presence? – the importance of history in park administration

A major issue for the peoples of Te Urewera in respect of park administration is that their history has been misrepresented and submerged in official information about the park and the region. Some may wonder why park history became such a touchstone for conflict. Quite simply, it was because far more was involved than a recitation of historical facts. For Tuhoe in particular, the treatment of their history was of central importance for what it said, or failed to say, about recognition of their presence and rights within the park, and of their right to be represented in park administration. Underlying their push for a historical account that embodied their experience – including the questionable circumstances in which the Crown acquired the lands later incorporated into the park – was a determination that

877. Department of Lands and Survey, *New Zealand Case Study*, pp 6–8 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), pp 1146–1148). During the 1975 South Pacific Conference, Matiu Rata, the Minister of Maori Affairs, had upheld the lease of the lakebed of Lake Waikaremoana as a successful example of the Government allowing indigenous people to retain ownership of their lands within a national park. See Edwards, ‘Te Urewera National Park’ (doc L12), p 15.

878. Department of Lands and Survey, *New Zealand Case Study*, p 9 (Edwards, ‘Te Urewera National Park’ (doc L12), p 35)

879. Edwards, ‘Te Urewera National Park’ (doc L12), p 34

880. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111)

their mana whenua in Te Urewera should be recognised – by both park management and visitors. Suppression of history, as the Tuhoe Maori Trust Board put it on one occasion, was a route to marginalisation of their continuing relationship with their lands, and of their meaningful involvement in decision-making.⁸⁸¹

Perhaps it is easy to see why approaches to the preservation of history became contested at the outset. In 1963, the secretary to the recently established park board responded to a request from the Historic Places Trust to identify historic sites by listing the following sites that the board wished to preserve: an armed constabulary building, old soldiers' graves, and a rock on which soldiers' names were engraved.⁸⁸² At our hearings, Hirini Paine of Waikaremoana voiced Tuhoe views about that approach to history when commenting on DOC's management of three sites associated with the colonial occupation of Te Onepoto:

Of concern is that the sites in question are immortalising through their actions dark memories around the death and destruction wrought on our peoples of Waikaremoana by the colonial forces and their descendants rather than promoting efforts to protect or remember with reverence the way of life and kainga of the peoples displaced by the colonial forces.⁸⁸³

The presentation of the history of park lands became an issue as park management plans were prepared, from the late 1960s on. The application of the preservationist model in Te Urewera was highlighted in the interpretation of the park's history, which at once became a bone of contention between park administrators and Maori leaders, and has long remained so. The administrators found themselves in a cleft stick, for it was difficult to ignore the Maori history of Te Urewera. But the history Tuhoe had experienced was one of colonial conflict and land loss – including the loss of the lands incorporated in the national park. It was not a history that sat easily with the image of a 'remote' wilderness. The official preference therefore was to stress the Maori association with the land as lending it romantic and picturesque interest, with the people featuring as human relics of a bygone age rather than as vigorous, functioning communities.

Early attempts were made to incorporate Maori history into the park's character but they were not well executed. We consider briefly two examples: the development of the historical account of the park in park management plans, and the implementation of the vision for the Aniwaniwa visitor centre, before turning to the handling of history in later park plans.

The process of devising the first park management plan, which began in the late 1960s, took several years. The planning team comprised the chief ranger, a Ministry of Works engineer, a forester from the New Zealand Forest Service, an

881. Tuhoe Waikaremoana-Maori Trust Board, 'In the matter of The National Parks Act 1980, Te Urewera National Park Draft Management Plan', 5 July 1987 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), p 245)

882. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 146

883. Paine, brief of evidence (doc H20), p 14

architect, and a landscape architect.⁸⁸⁴ In November 1969, park board member John Rangihau asked that Tama Nikora be co-opted to the planning committee to give advice on issues relating to Maori.⁸⁸⁵ A draft park plan was prepared by 1970 that contained ‘half a page of Maori history and no analysis of how the land came to be in Crown ownership’.⁸⁸⁶ Nikora criticised the historical account on the basis that some of its details were inaccurate or biased. He later prepared his own draft, which he submitted to the board for consideration. This prompted a heated debate about historical interpretation – conducted, it must be said, at a time when the experiences of the peoples of Te Urewera were little known among non-Maori. Nikora’s version included the roles of Rua Kenana and Te Kooti, but some members of the planning team and board thought it was biased and too controversial – especially in its description of Te Kooti as a ‘patriotic nationalist’.⁸⁸⁷

Although Nikora’s account of the Maori history of the park was unanimously endorsed by the Tuhoe Maori Trust Board, it seems that little of his material was included in the redrafted version in the park plan. In 1973, Nikora, by then a member of the park board, was still trying to get a Tuhoe account of their history accepted. His protest that the draft gave the impression that the ‘Park had suddenly been created in 1952’, testifies to Tuhoe dissatisfaction with the sanitised account the board wanted, and the depth of feelings at the refusal to acknowledge the origins of the park on their lands.⁸⁸⁸

In the final version of the management plan, the history of the park featured in two sections, entitled ‘Establishment’ and ‘History’; they amounted to less than a page (see sidebar). The section on ‘Park Interpretation’ dutifully stated that: ‘To fully appreciate the Urewera the visitor to the Park needs to be aware of its outstanding Maori history’.⁸⁸⁹ But it is evident that Mr Nikora’s efforts to convey the relationship between the land and the peoples of Te Urewera, and the peoples’ experience of colonisation, had been largely in vain. And those of an American protected areas expert, Professor Wilcox, who had visited Te Urewera National Park in 1974, had fared no better. Wilcox had reported to Lands and Survey officers – with an outsider’s eye – that ‘a principal theme for interpretation at Urewera National Park should be Maori history and culture’.⁸⁹⁰ Maori influence, he wrote,

884. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 276; Campbell, ‘Te Urewera National Park’ (doc A60), p 105; Director-General of Lands to Commissioner of Works, 7 July 1969 (Campbell, supporting papers to ‘Te Urewera National Park’ (doc A60(b)), pp 182–183). The architect was John Scott (1924–1992) of Taranaki and Te Arawa ancestry, and designer of the Waitangi visitor centre, Futuna Chapel, and many churches.

885. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 277

886. *Ibid.*, p 288

887. TR Nikora to secretary, Urewera National Park Board, ‘Historical Section: Management Plan’, 17 March 1971 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 289)

888. TR Nikora to secretary, Urewera National Park Board, 13 December 1973 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 291)

889. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, p 38

890. Department of Lands and Survey to all commissioners of Crown lands, ‘Visit of Professor AT Wilcox’, 29 April 1974 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 139)

Explanation of the Park's History from the 1976 Management Plan

'ESTABLISHMENT

'The intention to establish a National Park in the Urewera area was gradually developed from 1896 onwards.

'In June 1952, the Government announced it was negotiating for some 200,000 hectares of Urewera Crown Award to be set aside as a National Park.

'The name Urewera was adopted at a meeting with the Tuhoë people in 1954 and the nucleus of the new Park, 49,000 hectares, containing the watershed areas of Lakes Waikaremoana and Waikareiti, was gazetted on 28 July 1954.

'Further major additions were made in 1957, 1962 and 1975 which together with a number of smaller acquisitions and the lease of Lake Waikaremoana in 1971 gives the Park a total area of approximately 211,062 hectares.

'The appointment of the first Urewera National Park Board was gazetted on 16 November 1961.

.

'HISTORY

'The Urewera National Park abounds in history, song and legend and was the scene of feuds, intrigue and many battles. These are recorded in Elsdon Best's *Tuhoë: Children of the Mist*.

'The Maori inhabitants of Te Urewera comprise a host of sub-tribes which as a

'is everywhere'.⁸⁹¹ Yet, he could find little evidence of Maori history in the themes of the park.

The implementation of a vision for a new principal visitor centre at Aniwanui was another catalyst for discord. The 1976 park plan had laid out the board's policy 'to develop and maintain interpretation programmes,' with 'interpretative themes' for each locality of the park. The theme to be developed at the visitor centre, it said,

is intended to present the Urewera as a vast, unspoilt wilderness, despite hundreds of years of human occupation, the aim being to interpret both Maori and natural history by showing how the Maori lived in almost complete balance with the ecosystems as compared with present day pollution and environmental problems resulting from a heavy emphasis on materialism.⁸⁹²

891. A T Wilcox, comments on 'Te Urewere National Park', 26 December 1973 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 139)

892. Urewera National Park Board, *Urewera National Park Management Plan*, 1976, pp 38, 39

confederation is known as Tuhoe, one of the principal tribes of Te Ika-a-Maui (New Zealand). These people are also known as 'The Children of the Mist' which is an allusion to the mythical union of Te Maunga (the mountain) and Hine-Pokohurangi (the celestial mist maiden) from which union sprang Potiki whose descendants populated Te Urewera since about AD 1350.

'The first white man to see Lake Waikaremoana and traverse the virgin forests of Te Urewera was the Rev William Williams, who having established a mission station at Gisborne in January 1840, set out in November to visit Rotorua using a cross country route via Waikaremoana and Ruatahuna.

'Te Urewera was also the scene of hostilities in connection with European colonisation and campaigns by the Armed Constabulary which failed to confine the Maori leader and warrior, Te Kooti. Government forces succeeded eventually, however, in establishing peace amongst the turbulent Tuhoe people in the 1870's.

'The early 20th century saw the rise of Rua Kenana, the prophet who established a prosperous village at Maungapohatu in the very heart of Te Urewera.

'Today economic pressures are forcing more and more Tuhoe to live away from their lands but the bond which has been forged by history remains.'¹

1. Urewera National Park Board, *Urewera National Park Management Plan, 1976* (Hamilton: Department of Lands and Survey, 1976), pp 3, 8–9 (Cecilia Edwards, comp, supporting papers to 'Selected Issues: Te Urewera National Park; Thematic Issue 33', various dates (doc L12(a)), pp 1370, 1373–1374)

The Aniwanuiwa centre was being designed at the same time as the park board debate about the history of the park. Claimant researchers Ngahua Te Awekotuku and Linda Waimarie Nikora gave evidence of the apparently shared commitment of park management and Tuhoe leaders in the early 1970s to the unique character of the visitor centre, which was to house a museum 'concerned with Maori culture and Maori interpretation as it related to the National Park.'⁸⁹³ But a gulf soon emerged between their respective views of how to convey the centre's theme of centuries of Maori occupation of Te Urewera. In particular, Tuhoe offered to contribute murals, carvings, and artefacts to the centre, but this was not taken up. The researchers concluded that 'the wilderness feature became the primary emphasis of the display', overshadowing the park's history of Maori occupation. Thus, when the presentation of Maori history and culture was discussed by the board's interpretation committee in early 1979, it was resolved 'The first priority was to inform the public of a simple broad outline of Maori history with not too many Maori

893. Urewera National Park Board, interpretation committee minutes, 2 May 1974 (Ngahua Te Awekotuku and Linda Waimarie Nikora, 'Nga Taonga o Te Urewera' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc B6), pp 43–44)

names.⁸⁹⁴ It would be difficult to diminish the relationship between the peoples of Te Urewera and their ancestral lands any more than this.

The outcome of the limited efforts made by park administrators by the mid-1970s to present the history that is integral to understanding the lands and peoples of Te Urewera, was an affront to the local Maori communities. The inadequate efforts to convey the depth of Maori knowledge and experience of Te Urewera also contributed to the continuing ignorance of those matters on the part of most park visitors – and New Zealanders generally. Insult and ignorance do not make for a healthy relationship. It is ironic that, had the Maori history of the park been conscientiously explored as part of the park's character, the strength of the continuing relationship between the peoples and the park would also have been uncovered. As it was, when the rift over park history was combined with the other causes of local peoples' mistrust of the park's administration, discussed shortly, there was scant foundation upon which to build a cooperative relationship. Yet, park staff and management increasingly wished for such a relationship, as they came to appreciate that, despite the hardship of the local communities' circumstances, the peoples of Te Urewera would not abandon their lands or their culture for the sake of a national park.

Change did come – though not without some bumps along the way. As late as 1983 the *General Policy* of the National Parks and Reserves Authority, which was the first to include a section on 'Identifying persons, places, and events of national or historical significance', did not specify Maori. One other policy on interpretative material stated only that such material should 'draw attention to historic Maori place names, especially where European names have been given subsequently.'⁸⁹⁵

Given this background, it is not surprising that a substantial 400-page report, *Te Urewera: Nga Iwi te Whenua te Ngahere/People, Land and Forests of Te Urewera*, prepared by Evelyn Stokes, Wharehuia Milroy, and Hirini Melbourne in 1986, drew a remarkable response from officials. Though the report was not contracted with Te Urewera park history in mind (its purpose was much broader⁸⁹⁶), it had a lengthy section on 'Crown dealings with Te Urewera lands' which put a Tuhoe view of Crown actions since the 1860s into the public arena in simple but powerful statements:

a deep-seated Tuhoe suspicion of Government motives in anything to do with Te Urewera lands, born of a long history of land dealings from the confiscations of the

894. Urewera National Park Board, interpretation committee minutes, 17 January 1979 (Ngahua Te Awekotuku and Linda Waimarie Nikora, summary of 'Nga Taonga o Te Urewera', 2004 (doc J3), p13)

895. National Parks and Reserves Authority, *General Policy* (1983), pp 33, 34 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 1299, 1300)

896. The report was contracted by the Department of Lands and Survey and the New Zealand Forest Service at a time when restructuring of both was being considered; the authors' brief was to report on 'social, economic and cultural factors which are significant and relevant to forest management policies and need to be addressed by Crown agencies whatever administrative reorganisation may occur': see Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p x.

1860s to the still inconclusive negotiations with the Tuhoe Trust Board over 'Maori enclaves' in the Urewera National Park.⁸⁹⁷

The past is part of the present and no good comes of pretending the past did not happen. We have endeavoured to present a concise and factual account of the main issues in what appears to local people to have been a consistent effort by the Crown to wrest the lands and forests of Te Urewera from Maori ownership and control.⁸⁹⁸

The report was very critical also of the presentation of history by park authorities, and assumptions that 'Te Urewera is a scenic wilderness with a romantic Maori past' which was stated to be 'deeply entrenched in management policy'. This was evident in the park's management plan and in promotional literature (which they quoted) such as the *Handbook to the Urewera National Park* (1966):

There is a natural grandeur in the Urewera National Park which will forever delight the soul of man. . . . it is when the history of a thousand years marches again through the tortuous valleys, and up the flanks of the mountains, and over their precipitous ridges, that the real glory of this land of primeval nature and primeval man is seen.⁸⁹⁹

There was an assumption, the report argued, that 'Maori history is something of the past, something that is dead and gone but can be recreated with a little imagination'. The same assumption was evident in the 1983 handbook: 'To the Maori of old, the mist wreathed hills and valleys held spirits and gods, and even now some strange presence seems to linger. Man, mountain and myth are blended together.'⁹⁰⁰

Stokes, Milroy, and Melbourne took issue with such romantic pronouncements which, in their view, served to perpetuate a public view of Te Urewera as a 'scenic area to visit for recreation' rather than 'the homeland and turangawaewae of a large number of Maori people':

In the Tuhoe view of their forest world the only strange or foreign presence is the visitors from outside. There are no shadows of past spirits; they are still there, ancestors and present inhabitants, all part of a continuing cultural tradition in a forest homeland that is neither strange nor wild.⁹⁰¹

The responses of Crown officials to the draft report illustrate the gulf between their views and those of Tuhoe, and why the authors of the report considered it

897. Ibid, p 46

898. Ibid, p 5

899. Urewera National Park Board, *Handbook to the Urewera National Park* (Hamilton: Department of Lands and Survey, 1966), p 6 (Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 36–37)

900. Urewera National Park Board, *Land of the Mist: The Story of the Urewera National Park* (Wellington: Government Printer, 1983), p 18 (Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 37)

901. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 37, 38

crucial to tackle such official assumptions. Those responses included criticism that the park should be shown ‘as an alienated “homeland” [*sic*] of the Tuhoe people,’⁹⁰² when its lands had been purchased by the Crown in what was called a ‘willing seller–willing buyer’ situation.⁹⁰³ As we have shown in the previous chapters, this was hardly a valid characterisation of the processes by which the Crown acquired the land. Officials were also hostile to the presentation of ‘predominantly minority views’⁹⁰⁴ – without considering that the report was itself a reaction to the monopolisation of the airwaves by the majority Pakeha perspective. And there was disquiet at suggestions that Crown administration of park lands might favour the concerns of the local people. As one official put it, ‘Deerstalkers from Auckland, Rotorua, Taupo, East Coast or Hawke’s Bay have the same rights under the National Parks Act as anyone else in the National Park.’⁹⁰⁵

But the report did influence the 1989 management plan for Te Urewera National Park – which, as we noted above, had a rather different tone from that of 1976. The historical section and the sections about relationships with local communities were drafted with the help of ‘specialist information’ provided by Stokes and Milroy.⁹⁰⁶ There is evidence in the plan of a greater awareness of the ‘cultural importance of the park and the traditional rights of the tangata whenua’ – matters which were identified in submissions on the draft plan as being among the main issues facing the park.⁹⁰⁷ A section on ‘Park history’ began with the heading ‘Tuhoe Maori Homeland’ and contained strong statements about the retention of control by Tuhoe ‘over their Urewera forest homeland’: ‘Te Urewera . . . is not just a scenic wilderness but also a tribal homeland for thousands of people who feel a very special attachment to it.’⁹⁰⁸

The section on European contact referred to Tuhoe’s shelter of Te Kooti during the wars, to the resulting destruction of Tuhoe settlements by troops, to Te Kooti’s emergence as a ‘revered leader and prophet in the Eastern Bay of Plenty; and the emergence in the course of time of the Ringatu religious movement, based on his teachings. Its mention of the Urewera District Reserve Act (which ‘set up a limited form of local government for Tuhoe’) however, is brief, and is followed by a history of tourism in Te Urewera, and the start of timber milling. The Urewera

902. Department of Lands and Survey, Hamilton, ‘Comments of Ranger Staff on Stokes et al Report’, 2 May 1986 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 347)

903. Planning officer, Hamilton, to chief surveyor, ‘E Stokes’ Urewera Study’, 13 January 1986 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 348)

904. *Ibid*

905. Commissioner of Crown lands, Gisborne, to planning officer, ‘Raukumara/Urewera Study’, 20 March 1986 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 349); see also ‘Comments on People, Land and Forests of the Urewera: draft social study report by Stokes, Milroy and Melbourne, 1985’; combined response of Department of Lands and Survey officers in Gisborne, Hamilton, Rotorua, and Head Office (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 349).

906. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 105 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1419)

907. *Ibid*, p iv (p 1387)

908. *Ibid*, p 29 (p 1396)

Consolidation Scheme is presented – opaquely – as the result of Crown moves to acquire control of the Waikaremoana catchment for soil and water conservation purposes. But the account closes with acknowledgement of Rua Kenana's community at Maungapohatu, his success in establishing farming there, and a brief account of the outcome of the police party expedition to Maungapohatu in 1916: two local people killed, several wounded, and Rua's arrest and trial. "This incident did not improve Tuhoe's relationship with the government."⁹⁰⁹ Thus, there is acknowledgement of key leaders and defining moments in Tuhoe history, but the fate of Tuhoe self-government and of the lands of the Urewera District Native Reserve is passed over.

In fact, the interpretation of park history remains contested – despite an acknowledgement by the department in 1996 that there had been little consultation about the information provided in brochures and guides about cultural and historic sites in the park. Consultation was admitted to be overdue because of lack of resources.⁹¹⁰ And the fate of the 2003 management plan is telling. Despite the conservator's seeking advice on the historical account from 10 iwi and hapu organisations⁹¹¹ – a draft which was generally favourably received by the Ruatahuna people – the management plan excluded most of that historical material. In nearly 200 pages of information about the park and its policies, there is barely a mention of its history, before or after 1840. The circumstances of the Crown's acquisition of the park land are dealt with in this awkward sentence: 'the history of land tenure and classification in Te Urewera, and the establishment of Te Urewera National Park is extremely complex and goes back as far as the signing of the Treaty of Waitangi.'⁹¹² The reason for the plan's silence is hinted at in a statement acknowledging 'tangata whenua' disputing the means by which the Crown acquired ownership of lands with the national park, and their claim before this Tribunal.⁹¹³

16.8.4 To what extent has the preservationist model affected Maori customary uses of park lands and resources, and their kaitiaki responsibilities?

Few issues aroused such strong responses in our hearings as the impact of the park on the ability of communities to use lands and resources that are now within the park, and to fulfil their kaitiaki responsibilities. The claimants spoke often about those responsibilities, which we outlined in chapter 2. Not only must the physical environment – the ecosystems and the life-forms they support – be protected, their mauri, or spiritual well-being, must also be cared for and conserved. Tikanga embodies the knowledge and rituals that regulate the relationship between tangata

909. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, pp 30–31

910. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 141

911. Peter Williamson, conservator, form letter to iwi, 'Te Urewera National Park Management Plan Review', 16 April 2000 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 409–410)

912. Department of Conservation, *Te Urewera National Park Management Plan*, pp 5, 21

913. *Ibid*, p 6

whenua and other living beings; a relationship founded in whakapapa and fundamental to the survival of Maori communities.

At the heart of the dilemma caused to Maori communities by the park's creation was the failure of the national parks legislation to respect and accommodate their own sustainable customary uses of park resources. Maori depended on the park lands for everyday living and for manaakitanga of visitors. But from their point of view, the underlying premise of the legislation was that customary uses were a threat and should be screened and pre-monitored for their compatibility with park values. The recreational pleasures of park visitors were evidently more important than their own long-established uses.

Crown counsel suggested that Maori were sympathetic to the way that conservation was conceived under the 1952 legislation, citing Sonny White's general support for the creation of a park from the Crown's land.⁹¹⁴ We explained earlier in the chapter that Te Urewera peoples, and Tuhoe in particular, were anxious to see the forest lands now tied up in the Crown's award given some kind of permanent protection, so long as their economic position on their remaining lands was also protected and their customary uses of the park lands respected. But there was no mention at all, then or at Tuhoe's subsequent meeting with Corbett, of the kinds of public or Maori uses that would or would not be allowed in a national park. Nevertheless, Crown counsel suggested that – in the years following the park's creation – 'tangata whenua historical connections with the park' were sufficiently acknowledged in the park's management: sites of significance to Maori communities were protected and traditional use of horses and dogs on park lands was catered for. Counsel acknowledged that these developments were not due to the legislation or the application of national policies, but rather the result of an improved relationship on the ground, stemming from 'years of interaction between tangata whenua via Board members, the Tuhoe Trust Board, honorary rangers and so on, and Park administration.'⁹¹⁵

But the inherent tension between the purposes and principles set out in the national parks legislation and the values and interests of resident Maori communities has never been resolved. Although the legislation made specific provision for recreational uses of park lands, Maori interests and customary uses were not mentioned. National policies and park management plans have begun to make provision for Maori customary uses and for kaitiaki responsibilities over time, but the monocultural focus of the legislation has not been revisited. This created problems for the Urewera National Park Board and its successors, which have had to walk a tightrope between Maori concerns, and those of recreational groups. The responses of the successive park boards varied depending on the circumstances of each case, though there was a tendency to err on the side of caution, so as to avoid being seen to 'privilege' Maori interests. In some cases, the boards made formal provision for Maori customary uses; in others, informal provision. In each case,

914. Crown counsel, closing submissions (doc N20), topic 33, pp 4–5

915. *Ibid*, p 9

the rules made were subject to change over time, established as they were within the parameters of legislation that made no specific provision for Maori interests.

In this section, we look at the extent to which Maori customary uses of park lands have been catered for in Te Urewera National Park, and the limits placed on these activities by national parks legislation. The claimants focused on what they described as a ‘permit culture’ that was gradually put in place following the park’s creation for a variety of activities conducted on park lands. This culture – the cause of so much resentment among Te Urewera communities – applied restrictions on horse use in the park (both for access through the park to their own land and for hunting), and the use of hunting dogs. The claimants’ concerns also centred on the lack of recognition for their kaitiakitanga over their taonga – including valued plant species and their habitats – and restrictions on their customary harvesting of plants. Finally, they were troubled about the lack of protections for their wahi tapu within the park, and about provisions for care and preservation of taonga created by their tipuna.

16.8.4.1 Use of horses in the park for access to Maori land and for hunting

We consider first the tension between national parks legislation and nationwide and local policies on the use of horses within park lands. The realities of the park and its boundaries meant that a range of Tuhoe settlements could only be accessed on traditional tracks through park lands. In the absence of road access, Tuhoe continued to rely on horses as they had for many generations. Horses were also relied on as crucial for hunting, which remained central to the everyday needs of communities living within or adjacent to the park.

Officials in the mid-1930s recognised the continued reliance of Maori communities on the land awarded to the Crown from the Urewera Consolidation Scheme for their sustenance, when considering how best to use that land. Introduced animals, such as wild pigs (introduced to Te Urewera in the 1840s) and deer (in the 1890s), had become important in food supplies in the traditional economy. This did not change after the park was established. The Stokes, Milroy, and Melbourne report (1986) recorded that most able-bodied men in the district were involved in hunting:

Horses, pigs, deer and dogs are exotic animals and were introduced to Te Urewera in the nineteenth century. They have been incorporated into the culture and life style of Te Urewera people and by virtue of time can be included as ‘traditional’ elements of modern Te Urewera culture.⁹¹⁶

As a well-established element of the local way of life, hunting was not simply a matter of recreation. It was a matter of ‘subsistence, culture and tradition.’⁹¹⁷ Horses were an essential component of this Tuhoe culture and tradition.

916. Stokes, Milroy and Melbourne, *Te Urewera* (doc A111), p 350, see also pp 149, 175, 249, 355

917. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 484

But the National Parks Act 1952 made it an offence to take an animal into a park, or cause an animal to be in a park, without park board approval (section 54). The 1980 Act restated those offences, but gave the Minister the power to approve of exceptions (section 60). The policy statements of the National Parks Authority and its successors were opposed to the presence of horses in national parks because of the damage they could do to tracks, or by trampling vegetation and spreading weeds. The 1964 *General Policy* was to ‘discourage’ the use of horses in parks; the 1978 policy stated that domestic animals would be not permitted in parks ‘unless, in the opinion of the Authority, animals are required to be kept for security or working purposes.’⁹¹⁸ But there remained an unresolved tension in successive national policies between the use of horses in parks – which was actively discouraged – and hunting. A principle of the legislation was that introduced fauna ‘shall as far as possible be exterminated’, which supported pig and deer hunting. But customary hunting practices in Te Urewera required the use of horses.

Hunting was permitted in national parks, as long as a hunting permit had been obtained. The need for hunting permits marked the first engagement of resident communities with the ‘permit culture’. Such permits were issued at first in the name of the commissioner of Crown lands, Hamilton, but in practice by the controller of wildlife at Rotorua.⁹¹⁹ But it was the first park board that engaged with iwi about hunting. The Reverend JG Laughton warned the board that a system of shooting permits was likely to be unpopular with local people, and he and two other board members held a meeting at Ruatoki to explain the need for a permit system. The people gave the board members a good hearing, and ranger staff ‘were often sympathetic’ if they caught Maori hunters without a permit; legal proceedings were at the discretion of park boards.⁹²⁰ (We discuss arrangements for the issue of permits in the next section.)

Within the terms of the legislation and the guidelines established by the national authorities, the policy in Te Urewera National Park has developed over time to allow horses to be used in these circumstances:

- ▶ by land owners, for access to their lands enclosed within the park (progressively from 1971);
- ▶ by hunters, so long as they have a permit and in certain sectors of the park; and
- ▶ by park management.

Up to 1970, park management did not require a permit for a horse in Te Urewera National Park, despite the legal prohibitions. The policy of the board was to be tolerant of horses on established horse routes, and to ‘allow its rangers a wide

918. National Parks Authority, *General Policy for National Parks* (1964) (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1254); National Parks Authority, *General Policy* (1978), policy 4.2 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1266)

919. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 474

920. *Ibid.*, pp 475–478

discretion.⁹²¹ This amounted to an informal authorisation of local peoples' traditional uses of horses in the park, and others' uses that were similar.

In 1970, the park board first considered establishing a permit system for horse use. The matter was raised by the team employed to draft the first park management plan. The report of the planning team stated:

In the Urewera both horses and dogs have been extensively used for over a hundred years . . . On the grounds that continued horse traffic will not significantly increase infestation of the Park by exotic plants, that areas of English grasses already exist and the pattern has already been established, the Urewera National Park Board may if it sees fit, approve by permit, the use of horses on established routes in that area of the Park north and west of the Pukehou and Huiarau Ranges.⁹²²

The proposal to establish a permit system for horses was included in the draft plan at the request of ranger staff, who were generally sympathetic to the need to protect Maori traditions of horse use. But the rangers also gave several reasons for allowing horses in the northern sector of the park, despite the Act's prohibition. They argued that 'No appreciable damage accrues on properly maintained tracks.' In addition,

- A. Recognised horse routes exist throughout the Park and have been established for nearly 100 years.
- B. Private land owners should be entitled to access on horse back through the Park by established custom and legal roadway.
- C. Horse traffic has remained constant through the years and shows no sign of decreasing.⁹²³

The rangers – who had developed the closest understanding of the day-to-day realities faced by Maori communities – acknowledged the need to provide for Maori use of horses in the park, based on traditional use.

Concerns raised by a new ranger at Murupara prompted the park board to take action on the planning team's proposal. The use of horses by non-local commercial hunters in the Murupara area of the park had increased. Hunters were reported to be straying from the established tracks, and limited grazing around huts meant that native bush was at risk of damage. But the ranger also acknowledged that Tuhoë communities at Ruatahuna, Ruatoki, and Waimana had long used their horses on established routes, and that any restrictions on the use of horses would

921. P Fairbrother, 'Report on Uses of Horses in Urewera National Park', 26 June 1971 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133)), p 509

922. Urewera National Park Board, Urewera National Park Planning Team Report Hamilton, Department of Lands and Survey, 1970, p 32 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 505)

923. Ranger staff, 'Notes for Master Plan: Domestic Animals Exemption', no date (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 505)

lead to strained relations ‘with people whose support is vital to the park’. Large areas of Maori land along the traditional routes ‘would also make policing any restrictions a farce.’⁹²⁴

The park board’s response was to form a new ‘general’ policy for use of horses in the park and, in August 1971, to introduce a permit system for the use of horses in the area administered by the Murupara ranger. Park staff, according to Coombes, initially overlooked evasion of the new rules by local Maori.⁹²⁵ The new policy was reviewed in 1973 after an increase in commercial operators using horses. The park board decided that tighter control was needed over the issue of special permits to use horses, and that permits should be restricted to local residents and full time commercial meat hunters, and made valid for one month, corresponding to the owner’s hunting permit. That system was soon extended across the whole park – evidently without consultation.⁹²⁶ Horses were also excluded from the Waikaremoana watershed, and the Ikawhenua and Ruakituri wilderness areas.⁹²⁷ A further review of the policy the following year persuaded the board that it was working satisfactorily and should be retained. It was recognised that the permit system had been interpreted inconsistently over the park, but in general the system meant ‘a more conservative approach to horses’ throughout the park, affecting Maori and Pakeha alike.⁹²⁸

Following these developments, the first park management plan (finalised in 1976) recorded the park board’s policy ‘to keep the number of domestic animals in the Urewera to a minimum and as far as possible to discourage the use of horses’. But it recognised:

that the local Maori people have enjoyed this right for over a hundred years and in some respects horses are part of the history and character of the Urewera. It is also clear that the right of access even by horse cannot be denied to owners of land totally surrounded by Park lands.⁹²⁹

It added that horse use for venison recovery could benefit the park by controlling noxious animals and, provided the board was satisfied there would be no detrimental effects, it ‘may issue a permit to use a horse for venison recovery’ in the northern and western areas of the park, ‘but will not do so for the purpose of general recreation.’⁹³⁰

924. A Jones, ranger, Murupara, ‘Report on Use of Horses in [UNP]’, 3 May 1971 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 507)

925. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 510

926. Ibid

927. The wilderness areas were flagged as such in the 1976 management plan. Turley, chairman, to all agents issuing shooting permits in the park, ‘Shooting Permits – Urewera National Park’, 5 May 1973 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 511)

928. DF Bell, chief ranger, to secretary, Urewera National Park Board, ‘Horse Permits’, 12 February 1974 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 511)

929. Urewera National Park Board, *Urewera National Park Management Plan*, 1976, pp 33, 34

930. Ibid, p 34

The 1976 plan's policy was later explained by the Lands and Survey district solicitor as recognising three exemptions from the general ban on horse use: 'firstly the use of horses by local Maori people in accordance with rights they have enjoyed for the past 100 years. Secondly, access by horse to owners of land totally surrounded by park lands and thirdly, the use of horses for venison recovery.'⁹³¹ The first two of those exemptions applied uniquely to local Maori.

In 1983, the National Parks and Reserves Authority's new *General Policy for National Parks* authorised specific exemptions from the general nationwide ban on horses. The new policy stated that the use of horses might be accepted

where they have traditionally been used for management or for access to private land. Recreational use of horses by organised groups may also be permitted under strictly controlled conditions . . . In no case will use of horses be permitted unless provision has been made for such use in the management plan.⁹³²

The *General Policy's* recognition of recreational horse riding groups was the result of a strong lobby to the authority, recently constituted under the National Parks Act 1980. Earlier drafts of the Policy had not acknowledged these groups specifically but had referred to 'traditional use' of horses being acceptable. On that wording, the pony clubs (a wide range from the Bay of Plenty, Gisborne, Wairoa, and East Coast areas) had contended that their proposed uses of park land should be recognised as 'traditional' because otherwise, Maori were getting special treatment.⁹³³ The final wording of the 1983 *General Policy* on horse use did not actually refer to the 'traditional use' of horses. It also avoided identifying only Maori uses as 'traditional', for it included park management as an activity in which horses had 'traditionally' been used.

Park authorities felt themselves vulnerable in this period to suggestions that they might be favouring Maori. The reaction of the Urewera National Park Board to a remarkable (if unusual) statement by the Rotorua branch of the Royal Forest and Bird Protection Society in 1979 in support of indigenous customary rights in the park is telling. In the context of a public debate about incorporating Whirinaki State Forest into Te Urewera National Park, a move favoured by environmental groups to protect Whirinaki Forest, the branch wrote:

There are very few national parks in the world that have within them an indigenous population and by one way or another in order to preserve their traditional customs depend on the understanding of Park authorities. There is only one National Park whereby legislation, extraneous to the concept of National Park, assists indigenous

931. District solicitor, Department of Lands and Survey, to commissioner of Crown lands, Gisborne, 16 December 1983 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p511)

932. National Parks Authority, *General Policy* (1983), p24 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p1295)

933. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p516

peoples. The rest depend on customary practice to preserve harmony. The Urewera National Park is one . . . [I]t is clear that the right of access, even by horse, to land totally surrounded by Park lands cannot be denied to the owners of that land.⁹³⁴

But the park board, instead of welcoming the Society's support, decided to defend itself against any charge that Maori might be receiving preferential treatment; though the branch's report had 'given a reasonable summary of the Park's attitude to horses', the board's chairman wrote, there was 'nothing in the policy to give a person living in proximity to the Park an advantage over an Aucklanders wishing to use horses'.⁹³⁵

It is clear that the park board's sensitivity was justified. At the time the 1983 Policy was being prepared, organised horse riding groups sought access to Te Urewera National Park 'for their own recreational and commercial projects' on the grounds that Maori had such rights within the park. The Rotorua District Pony Club and the Murupara Pony Club both applied to the park board in 1980 for permission to ride horses through the park, and their applications were declined. The Murupara Pony Club letter referred to the fact that the Rotorua club, which had applied to both the park board and the Tuhoe-Waikaremoana Maori Trust Board, had been rejected by both, and added: 'The Maoris have retained the right of access – including through the Park to their own land. Does the Park Board condone apartheid?'⁹³⁶

Late in 1980, the Mokoia Pony Club requested that a large number of clubs be allowed an annual permit for the Christmas holidays, to hold a trek through to Maungapohatu.⁹³⁷ The arguments of the clubs – and their claims of race-based favouritism, which at the time were bound to secure a fair amount of traction in the wider community – worried Lands and Survey staff who were supportive of local Maori rights to use horses in Te Urewera National Park.⁹³⁸ They were opposed to recreational riders, however, because of the park's limited grazing and the risk of damage to its native flora and tracks. With the review of the Te Urewera park's own management plan ahead of them, park staff predicted that a refusal to allow recreational riders into the park would fuel opposition to Maori horse use, and that debate would inevitably be joined by environmentalists, who would oppose all but the most limited use of horses. The very different interests and agendas involved would create a dilemma in which, as Coombes said, the 'restrictive position' (that is, not permitting recreational riders in the park) would lead

934. T Woods, Royal Forest and Bird Protection Society, 'Report on Horses, Hunting and Recreation in Urewera National Park', no date (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 514)

935. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 514

936. G Smith, Murupara Pony Club, to Velvin, 5 June 1980 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 515)

937. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 515

938. Ibid

to ‘the questioning of Tuhoe rights by recreational groups, but an easing of the restrictions would likely lead to environmental impact, environmentalists’ objections and, in turn, a prohibition on all horse use.’⁹³⁹

In other words, faced with the risk that public opposition to local Maori use of horses in the national park might become so strong that the National Parks and Reserves Authority, or the East Coast National Parks and Reserves Board, might ban all horse use by members of the public, park staff became focused on protecting Maori access to their own land and settlements. But in doing that, they either lost sight of or gave up on the position that horses were traditionally used for hunting as well as for transport throughout the lands that now make up the park. The East Coast National Parks and Reserves Board explained the new policy to the National Parks and Reserves Authority as representing a ‘middle path’ through the various views presented to it about the permissible level of horse use in the park:

The Board sought to achieve a middle path with a policy that provides for the use of horses in the Taneatua and Murupara sections as traditional access to the enclaves of Maori land, for wild animal control and Park management. Pony trekking is not permitted.⁹⁴⁰

In those circumstances – the new general policy and the pressure from recreational riders – the new park management plan that was finalised in 1989 was more restrictive of Maori horse use than the 1976 plan. The 1989 Te Urewera park plan makes no mention of traditional use of horses by tangata whenua. It is couched in these terms:

2.6.13 Horses will be allowed under permit for wild animal control. Usage will be confined to traditional horse tracks and areas of horse use as shown on [accompanying map]. Permit issue and use will be monitored to determine value to wild animal control and impact on park values.

2.10.3 Horse use will be restricted to essential park management purposes, wild animal control and as a means of direct access by landowners to their private land within the park.

2.10.4 Horse use in all circumstances shall be confined to the Murupara and Taneatua sectors of the park.⁹⁴¹

939. Ibid, p 523

940. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 524

941. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, pp 61, 63 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), pp 1412, 1413). Map 6, on page 28 of the 1989 management plan, entitled ‘Traditional Horse Access Routes through Te Urewera National Park’, depicted the tracks on which horse use was permitted in the Murupara and Taneatua sectors of the park.

Of the three permissible uses of horses there mentioned, only one is unique to Maori: horse use as a means of access to private land within the park which, the policy adds, must be 'direct'.⁹⁴² Horses might be used for hunting with a permit. This replaced the provision in the 1976 plan for the 'use of horses by local Maori people in accordance with rights they have enjoyed for the past 100 years'. The 1989 plan was, therefore, more restrictive than its predecessor.

The 2003 park plan has continued this trend. Horses may be used in the park on a limited number of tracks in the Murupara and Taneatua sectors for the purposes of conservation management (that is, by park staff and their contractors) and, if a permit is obtained, for hunting. They may also be used on these tracks as a means of direct access by owners and occupiers to private land surrounded by the park, if an authorisation is obtained. Both permits and authorisations may be granted at the discretion of the Minister of Conservation⁹⁴³ Because authorisation is now required for Maori owners to access private land, the 2003 park plan is also more restrictive than the 1989 one. It further states that provisions relating to horse use will be monitored and, if necessary, further restricted or altered.⁹⁴⁴

The current map of tracks on which horse use is permitted in the park is very similar to the 1989 map but is considerably more limited in its coverage than was sought by submitters from Te Urewera on the draft 2003 plan. Coombes records that at consultative hui on the draft plan 'there was a desire for more tangata whenua involvement in establishing where horses could be used'.⁹⁴⁵ A written submission from Tuhoe in September 2001 identified a number of traditional tracks that are not included in the park plan's map of permitted horse tracks:

HORSE USE – We concur generally with the objective and associated policies . . . However we are desirous of keeping Rua's track to Gisborne, Wharekahika to Raroa and Ruatoki, Orouamaui to Ohora and Ohane to Tauwharemanuka, Horomanga to Ohaua open to horses. There are other horse tracks that were used by our tipuna and continue to be used by Ngai Tuhoe that are not included on your map.⁹⁴⁶

The latest (2005) *General Policy for National Parks* states simply that animals will not be permitted to be taken into a national park unless they have been specifically authorised by law or a park's management plan.

By the mid-twentieth century, Tuhoe communities had well-established customs of horse use on their ancestral lands; horses are the main form of transport in the park's rugged terrain. But given the focus of national parks legislation, it is unsurprising that the creation of a national park on those same lands has led to considerable frustration. Horse use on park lands is an offence under both the 1952 and 1980 Acts unless authorised by the park board and, later, the Minister.

942. The reference to wild animal control is a reference to State programmes of control of noxious animals.

943. Department of Conservation, *Te Urewera National Park Management Plan*, p 100

944. Ibid

945. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 527

946. Ibid

Yet, the thrust of the legislation and the policies of national authorities was clear: horses damaged the protected flora and so were unwelcome in national parks. The circumstances in Te Urewera, however, were such that a strict application of preservationist principles was unrealistic. Park ranger staff acknowledged Maori customary uses of horses for hunting, as well as the requirements of communities to access their settlements through park lands. So did the Urewera National Park Board and its successors. These acknowledgements were enough to put the Crown on notice that the governing legislation was incompatible with the situation in Te Urewera. Instead, the park board was subject to pressure from recreational interest groups, and set in place a more restrictive policy at a time when we might have expected it to be more flexible. The changes that occurred in 1989 reflected the overriding objectives of the national parks legislation: the preservation of the natural features and native flora of national parks.

16.8.4.2 Use of dogs for hunting

The use of dogs in Te Urewera National Park has been the subject of stricter regulation than the use of horses. Dogs, however, had also become a crucial part of Tuhoe hunting practices by the mid-twentieth century. The imposition of new rules under national parks legislation and policies, therefore, only posed the potential for further resentment among Maori communities living next to the park.

Under both the 1952 and 1980 National Parks Acts, it is an offence to bring dogs into national parks. Accordingly, the National Parks Authority and its successors have opposed the presence of dogs in national parks, in general policy statements, including use of dogs for hunting. But the 1983 *General Policy* relaxed the earlier ban on the use of pig dogs by providing that trained hunting dogs could be permitted if that was provided for in a park's management plan. In 1996, the National Parks Act was amended to impose a nationwide permit and enforcement system to control the presence of dogs in national parks. Under this system, a dog control permit can be obtained from the director-general of conservation only where the dog is essential for a lawful activity that is proposed to be conducted in a park and that is allowed by the park's management plan.

The earliest policy on the use of hunting dogs in Te Urewera National Park was set out in a National Parks Authority by-law of 1954, which provided that no person could take a dog into the park without the written permission of the commissioner of Crown lands. Shooting permits issued at this time included the statement that 'no dogs are to be taken into the Park'.⁹⁴⁷ Despite this, there was little controversy about dog use. According to Coombes, the by-law was ignored by Maori. Permits for hunting were granted by park staff or by Forest Service rangers.⁹⁴⁸

Early park board policy reflected some difficulty reconciling local customs with the National Parks Authority's general policy. The authority's 1964 national policy stated that boards were to keep to a minimum the number of domestic animals in

947. Ibid, p 488

948. Ibid, p 489

THE Department of Conservation's regulations are totally unjust to the people of Te Waimana. . . . they decided that if you wanted to take dogs into the bush you had to be a member of a pig hunting or deer hunting club, and a tag had to be worn by the dogs. Only then would you be permitted to take three dogs into the Urewera. The people of the valley were not given any exemption.'

Colin Bruce (Pake) Te Pou¹

1. Colin Bruce (Pake) Te Pou, brief of evidence, 18 October 2004 (doc H40), p 5

parks.⁹⁴⁹ But that same year, on the basis that pig hunting is 'virtually impossible . . . without suitable dogs',⁹⁵⁰ the senior Te Urewera park ranger was authorised to grant permission to 'people he knew to be reliable' to take pig dogs into the park.⁹⁵¹ The Forest Service, which was responsible for the control of noxious animals, also authorised some of its contracted hunters to use dogs. But complaints from local farmers led the park board to ban pig dogs from the Galatea region of the park in 1969, and the ban was soon extended to the Waikaremoana/Waikareiti watershed, the Ruakituri Valley, and parts of the Upper Whirinaki in 1970. The conditions for granting permits in other areas of the park were made more restrictive, with applicants needing to show 'special circumstances' justifying dog use. In addition, a limit of two dogs per hunter or four per party was introduced.⁹⁵² Seasonal restrictions on hunting for the safety of other park users were first introduced in 1968, when hunting in the Waikaremoana/Waikareiti watershed was banned during the summer holiday period – from 25 December to 31 January. In 1977, the summer restrictions were extended to Waimana.⁹⁵³

In 1973, the park board banned pig dogs completely from the park, recording that the previous policy has been 'misused or misinterpreted and permits had been issued much too freely in some areas.'⁹⁵⁴ Agents were instructed to issue no

949. National Parks Authority, *General Policy for National Parks* (1964), p 10 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1254)

950. Secretary, Urewera National Park Board, to KKB Ross, Wairoa, 11 December 1962 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 490)

951. Urewera National Park Board, minutes, 25 November 1964 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 491)

952. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 493–494

953. DF Bell, chief ranger, to secretary, Urewera National Park Board, 'Hunting Restrictions, Waimana Valley', 7 February 1977 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 482)

954. Urewera National Park Board, minutes, 15 March 1973 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 495)

permits for hunters to take pig dogs into the park.⁹⁵⁵ The ban lasted for 10 years. In that time, Forest Service contractors were authorised to carry out deer control operations with dogs, which caused some ill-feeling among the local Maori community. The 1976 management plan made reference to the terms of the National Parks Act 1952, and nationwide policy against the presence of domestic animals in national parks; no exemption was provided for pig dogs.

In 1982, however, the park board relaxed the ban on dogs, on the recommendation of the commissioner of Crown lands, Gisborne. This was in response to a campaign by the Eastern Bay of Plenty Pighunters' Club, and research that had confirmed that pig numbers in the park had increased. It was decided to trial a six-month pig hunting season, from 1 May to 30 October, in areas of the park selected by ranger staff. Only registered pig hunting dogs were allowed, and pig hunters had to be members of a club.⁹⁵⁶ Some locals, the board recognised, had 'difficulty in accepting . . . that only registered pig hunting clubs could participate in the trial'.⁹⁵⁷ But Tuhoe formed their own hunting club, and a club was also formed at Waikaremoana. The 1989 park management plan reiterated that recreational hunting would be 'encouraged and publicised' as an acceptable recreational activity, and for its importance in controlling wild animals. Its policy on dogs was influenced by submissions made by local hunters about their dependence on hunting for food and to supplement their income. As we have seen, it was also influenced by national political change, and a new recognition of Treaty rights. It read: 'Dogs will be permitted for pig hunting under strictly controlled conditions. Tuhoe rights, under the Treaty of Waitangi, will be taken into account when conditions are set.'⁹⁵⁸

The plan also stated that a permit was required to hunt with dogs, and such hunting was only allowed during 'specified winter months'.⁹⁵⁹ By 1998, the pig hunting season had been shortened to three months, but the ranger at Aniwanuiwa explained to a joint ministerial inquiry that year that 'agreement is given to tangata whenua to catch pigs outside of that season (within the Park) for important hui, or tangi'.⁹⁶⁰ It appears that this informal arrangement is only in effect in the Waikaremoana area of the park.

The current Te Urewera Park Management Plan (2003) reiterates that recreational and commercial hunting has a role in introduced animal control (hunting for food supplies for resident communities is not mentioned), and recognises

955. Urewera National Park Board, minutes, 15 March 1973 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 495)

956. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 498–499

957. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 499

958. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 61 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1410)

959. *Ibid*, p 27 (p1395)

960. G Mitchell, Department of Conservation, 'Enquiry Issues', 11 March 1998 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 486)

that dogs can be essential to pig hunting; limited use of dogs for pig hunting is allowed.⁹⁶¹ In a lengthy justification of the policy, it is explained that during the years when all dogs were banned from the park (stated to be 1960–1984), pig numbers soared, so that pigs were prone to starvation and disease. Dogs were thus permitted in the park again to control the pig population, so that flora and fauna (especially ground birds) in the park are protected.⁹⁶² Permits can be issued provided that certain conditions are met, relating to dog identification, the number of dogs used, and the areas of the park, and the season, in which hunting can be undertaken.⁹⁶³ The periods in which dogs are permitted in the park are 1 May – 31 July in the Lake Waikaremoana catchment, and from 1 May to the Friday before Labour Day in the rest of the park.⁹⁶⁴

The short season caused some disquiet among local people, given their economic circumstances. A 2001 submission from the Te Waimana Kaaku Tribal Executive on the 2003 draft management plan unsuccessfully requested that the hunting period be extended from 31 March to 30 November ‘for Ngai Tuhoe dog owners’ due to ‘economic hardship for local landowners within Te Urewera’.⁹⁶⁵ In 2004, concern about dogs killing several kiwi in the park caused the Department of Conservation to issue an interim policy requiring hunting dogs to have avian avoidance training and their owners to demonstrate they can control their dogs. According to the regional conservator at the time, there was ‘considerable consultation with pig hunting groups and hapu’ about the interim policy and the pig hunting organisations were ‘generally supportive of it’.⁹⁶⁶

The 2003 *Management Plan*, which undertakes to manage the park in a manner that ‘gives effect to’ Treaty principles, refers explicitly in this context to liaison with and consultation of tangata whenua.⁹⁶⁷ But the Treaty is not mentioned in sections on hunting.

Because dogs have been considered to cause more damage than horses to national parks, they have been subject to more restrictions. But the changing rules and regulations in respect of dog use in Te Urewera further highlight the inconsistency at the heart of the system. Dogs have been banned because of their perceived danger to ground birds, yet permitted again when soaring pig numbers have seemed a worse danger. At such a time, little account was taken of the needs and interests of local Maori communities, who relied on dogs as central to their hunting practices for generations. Although avian avoidance training has been a

961. Department of Conservation, *Te Urewera National Park Management Plan*, p 77

962. *Ibid*, pp 80–81

963. Williamson, brief of evidence (doc L10), pp 32–33

964. Department of Conservation, *Te Urewera National Park Management Plan*, p 82

965. Te Waimana Kaaku Submission, ‘Te Urewera Draft Management Plan, 2001’, 7 September 2001 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 487)

966. Williamson, brief of evidence (doc L10), p 33; see also Brett Butland, community relations officer, to Peter Williamson, ‘Strategy: Dogs on Public Conservation Land’, 25 August 2004 (Peter Williamson, comp, attachments to brief of evidence, February 2005 (doc L10(a)), attachment s)

967. Department of Conservation, *Te Urewera Park Management Plan*, p 33

positive development, the ebb and flow of dog regulations is further evidence of the incompatibility of the governing legislation with the situation in Te Urewera.

16.8.4.3 Customary harvest of plants

Customary, sustainable plant gathering practices – for food, for rongoa, and for weaving – have for many generations been important in Te Urewera. The Reverend John Laughton had stressed this point during the hui held at Ruatahuna in December 1953, in which the creation of the park was discussed with Minister Corbett: ‘They [Tuhoe] were still partially dependent on the forest fare of their ancestors – hinau bread, tawa berry conserve and the succulent heart of the mamaku fern – and their meat supply came from the hunt.’⁹⁶⁸

Park restrictions on gathering plants, particularly pikopiko (the young shoots of a particular fern that taste somewhat like asparagus), were therefore greatly resented. Stokes, Milroy, and Melbourne found that in Waikaremoana ‘local people have many stories about rangers preventing them from gathering even the ubiquitous puha’⁹⁶⁹ Nicky Kirikiri also told us that park rangers at Waikaremoana stopped Ngati Ruapani and Tuhoe from taking pikopiko, and confiscated their harvest, so that ‘In the end we just stopped telling them we were going and just went anyway.’⁹⁷⁰ The chief ranger, speaking in 1985, confirmed that ‘We stop some people and take the plants if their removal is “unauthorised”’.⁹⁷¹

The removal of native plants from a park, in other words, ran headlong into the legislative prohibitions of that activity without park board permission. Such activities were included among the list of offences under the National Parks Act 1954, which stated that it was an offence to ‘wilfully break, cut, injure, or remove any plant, stone, mineral, or thing’, or to ‘take any bark, flax, mineral, gravel, or other substance or thing’ (section 54). The National Parks Authority was also required to give its consent before a park board authorised the cutting or destruction of any native bush in a park (section 29). The National Parks Authority’s 1964 *General Policy* later followed this strict line, authorising boards to grant permits to take ‘specimens of flora and fauna . . . for scientific and educational purposes’, so long as such taking did not deplete any species unduly.⁹⁷² Customary uses were, therefore, not covered by the legislation or the policy.

The consequences of the restrictions set out in the National Parks Act were soon felt on the ground in Te Urewera. In 1962, shortly after the Urewera National Park Board was established, the park ranger reported that Maori had been warned to stop taking pikopiko. He advised the board: ‘The Maoris state they have been

968. ‘Meeting of Tuhoe Land Owners with the Hon EB Corbett, Minister of Maori Affairs and Lands at Ruatahuna on Thursday 10/12/1953’, minutes, 10 December 1953 (Neumann, “ . . . That No Timber Whatsoever Be Removed” (doc A10), pp 123–127)

969. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 223

970. Nicky Kirikiri, brief of evidence, 11 October 2004 (doc H59), p 10

971. D Taylor, ‘Report: Information Gathered During Urewera – Raukumara Study Trip, 18–22 February 1985’ (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 459)

972. National Parks Authority, *General Policy for National Parks* (1964), p 9

collecting this fern for many years and are not very happy about the situation.⁹⁷³ The minutes of the board's discussion show that it understood that the ranger would be in a difficult position if he tried to prevent the practice:

Strictly speaking this practice constitutes an offence against s54[1](g) of the National Parks Act; but the Maoris have traditionally picked piko piko for many generations in parts of what is now Park land, and the picking does no harm to the fern itself.

Agreed: Further discussion with Maori leaders seems necessary before any other action is taken.⁹⁷⁴

That minute, we note, suggests that Maori were surprised that national park rules might prohibit their customary use of park resources. It also reveals the important point that park board members knew that the manner and extent of the customary pikopiko harvest did not damage the plants. Nevertheless, without prior board permission, any taking of part of a native plant was an offence under the 1952 Act.

Three days after that board meeting, Wiremu Matamua and 51 others petitioned the Minister of Lands, R G Gerard, about the matter:

We, the undersigned, as your most humble servants do pray to you grant us permission to enter the Urewera National Park and the Government Scenic Reserves from Ruatahuna to Lake Waikaremoana, and to collect that rare Maori National diet from bush known as Piko Piko or Maori asparagus.

Last week, we were told by some of the Rangers patrolling such areas, that we are no longer permitted to enter, nor to pick them. Why are we denied this rare Maori National food? This is not hurting the plants either. Will you please grant us the same privilege, and honour we all share and have enjoyed in years past.⁹⁷⁵

If, as the petition suggests, its signatories had been told they had no right to be in the national park for any purpose, then that advice was plainly wrong.

The Minister's initial reaction to the petition was negative, but advice from the park board influenced his response. The board's chair, Commissioner of Crown Lands FS Beachman, advised the Director-General of Lands (chairman of the National Parks Authority) that its preferred strategy was not to prohibit pikopiko harvesting in the national park but to educate and persuade the petitioners to change their ways. That approach would cause least damage to the relationship between the board and owners of land within the park, and this was

973. SB Sturm, park ranger, Aniwhaniwa, 'Ranger's Report, Period Ending 22.10.62' (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 443-444)

974. Urewera National Park Board, minutes, 1-2 November 1962 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 444)

975. Wiremu Matamua and 51 others, 'Petition to Minister of National Parks', 5 November 1962 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 444-445)



Pikopiko, the young shoots of the mamaku fern. Pikopiko fronds were a precious food source for Te Urewera Maori, but legislation and policy governing Te Urewera National Park did not provide for its continued customary harvest until 1989. For many years, Maori wishing to gather pikopiko were reliant on the discretion of individual rangers.

particularly important, he added, in light of the negotiations over the lakebed of Lake Waikaremoana:

Those members of the Board who have the closest associations with the Urewera Maoris were not sure whether the practice of collecting Piko Piko is diminishing over the years, but felt that an attempt should first be made to educate and persuade them to desist from picking within the Park territory.

There is no doubt that the Maoris feel very strongly on the matter and any blunt prohibition would be likely to antagonise them. The matter is a delicate one, for it is essential that good relations be maintained between the Board and the Maoris who live in or hold interests in lands lying within the Park. It is likely that some or most of the present practitioners hold shares in the ownership of Lake Waikaremoana and to antagonise them over Piko Piko might well prejudice the negotiations to acquire the Lake, which is a matter of much greater immediate importance.⁹⁷⁶

⁹⁷⁶ Commissioner of Crown lands, Hamilton, to Director-General of Lands, 23 November 1962 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 446)

The National Parks Authority agreed that ‘by persuasion and education, the Maoris would cease picking piko piko’ and suggested that ‘further consultations’ were needed to come to ‘some satisfactory arrangement.’⁹⁷⁷

Minister Gerard’s reply to Matamua in January 1963 advised that the authority approved of the park board giving authority to its ranger to permit a limited taking of pikopiko shoots but in the hope that the practice would soon stop.

The National Parks Authority realises that the local Maoris have traditionally picked piko piko on lands which comprise the Urewera National Park and does not desire to be unduly restrictive by a strict enforcement of the law. There cannot be unlimited picking but the Authority considers that a limited amount of taking of the shoots of the piko piko could be permitted and has asked the Urewera National Park Board to give authority to its park ranger to make arrangements accordingly with the local Maoris. The Authority hopes that before long the practice of collecting shoots within the confines of the park will cease.⁹⁷⁸

Despite the success achieved by Matamua and the other petitioners in gaining limited recognition of their customary use, the park board did not move in that direction. Instead, the board adopted the opposing position of educating Maori that customary use should come to an end. This position proved decisive in shaping the policy of the National Parks Authority. The 1964 *General Policy* closely mirrored the views of the park board and the Minister, encouraging ‘education in proper park use rather than . . . prosecution.’ The taking of plants would only be permitted for scientific and education purposes; not for customary use by Maori. This outcome highlighted the fact that the national parks model was ill-suited to the unique circumstances in Te Urewera, which on this occasion had been brought directly to the Crown’s attention, and by none other than the Maori community that was directly affected.

More than a decade later, in 1976, the park board restated that its policy was to allow limited customary harvest, but still based on the expectation that such practices would come to an end. In considering a written request from a Ngati Ruapani man to gather pikopiko in a particular area of the park, the board members ‘saw no objection to the traditional practice of gathering piko piko for food, provided it was done on a limited scale for family needs and in view of the fact that the practice was decreasing and would eventually cease.’⁹⁷⁹ It was then resolved that the chief ranger would call upon the applicant and explain the park board’s policy about gathering plants or vegetation in the park.⁹⁸⁰

977. Director-General of Lands to commissioner of Crown lands, Hamilton, 23 November 1962 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 447)

978. Minister of Lands to W Matamua, 22 January 1963 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 447)

979. Urewera National Park Board, minutes, 9–10 September 1976 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 367)

980. Ibid

The newly approved 1976 park management plan continued to reflect the disparity between the national parks legislation and the interests of Maori communities. No provision was made for customary takes of pikopiko, or of any other plant. Instead the policy stated only that:

The National Parks Act 1952 states that without the permission of the Park Board no weed, tree, shrub, fern or plant or any part of them may be removed, cut or damaged.

It is therefore the policy of the Park Board to prohibit the taking of specimens of any kind, except for essential purposes relating to rare or threatened species or for research authorised by the Park Board itself.⁹⁸¹

This blanket prohibition seems rather remarkable, given that it was now 14 years since Matamua had petitioned the Government. Yet, the park management plan provided the obvious reason: the National Parks Act. For the time being, therefore, local people were dependent on the discretion of particular rangers.

The informal policy adopted by the park board to allow limited customary takings of pikopiko – despite the prohibitions in the Act and, later, its own management plan – applied to other native plants as well. A number of speakers at our hearings spoke of gathering plants used for rongoa, the use of fallen totara for carving and repair or construction of buildings, and kiekie, used in weaving (see chapter 2). But following the creation of the national park and associated restrictions, weavers were required to apply for permission to collect kiekie. In December 1967, the park board agreed to a request, made through board members Nikora and Teague, for a Tuai woman to harvest kiekie from forest near Kaitawa ‘where she had always obtained it in the past, for making baskets.’⁹⁸² Further requests from Tuai people were also supported.⁹⁸³ In March 1980, a written request was made to the chief ranger of the park on behalf of Waiputu Marae in Hastings and St Joseph’s Maori Girls College in Taradale to gather kiekie for use in tukutuku decorations in two meeting houses. The applicant explained that the elders at Waimako Marae had already been approached and that ‘they have agreed to direct us to the kie kie areas providing we first get your permission. With them guiding the way, the forest is assured of its proper protection.’⁹⁸⁴

The chief ranger referred the request to the park board. Noting that the plant was scarce in the park and might be more available on State forest lands, the board felt unable to make a decision without more information about the quantity of kiekie needed and the proposed collection area. Three months later, when the Ngati Kahungunu board member described to his colleagues an area adjacent to

981. Urewera National Park Board, *Te Urewera National Park Management Plan, 1976*, p 42 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 464)

982. Urewera National Park Board, minutes, 1 December 1967 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 233)

983. See chairman, Urewera National Park Board, to SRurehe, 28 May 1969 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 450).

984. P Matchitt to chief ranger, 24 March 1980 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 450)

the Kaitawa power station where kiekie grew profusely, the board resolved that the chief ranger could authorise the gathering of kiekie for the Hawke's Bay whareniui, provided he was satisfied it would have no adverse environmental impacts.⁹⁸⁵

By 1983, park administrators had developed a greater understanding of Maori customary uses of plants, and signs began to emerge in favour of change. The 1983 *General Policy* of the National Parks and Reserves Authority made the first specific statement about traditional uses of native flora and fauna, in these terms: 'Traditional uses of indigenous plants or animals by the Maori people for food or cultural purposes will be provided for in the management plan where such plant or animals are not protected under other legislation and demands are not excessive.'⁹⁸⁶

The *General Policy* noted the prohibitions in the National Parks Act 1980 (section 60) on taking plants, but stated that the policy was a guide for the 'interpretation and exercise of discretions' contained in the Act. In the case of plant harvesting, therefore, the 1983 policy represented a new interpretation of what is allowable under the Act.

The 1989 Te Urewera park management plan (issued by the East Coast National Parks and Reserves Board) responded to this new national policy – and also it seems to developments on the ground (see below) – with a section on 'Traditional Uses of Native Plants':

Traditional uses of indigenous plants by tangata whenua for food and other cultural purposes are permitted with prior approval of park management provided that the particular plant species are not rare, vulnerable, endangered or otherwise protected, and the demands are not considered excessive.⁹⁸⁷

In 2003, the East Coast Hawke's Bay Conservancy issued its management plan for Te Urewera National Park. This plan went considerably further than that of 1989 in providing for traditional uses. It did emphasise the importance of preserving the park's indigenous flora, so that it is only in 'special circumstances' that plant collection will be authorised (policy 9.5). But it recognised that 'tangata whenua may wish to collect plants for a range of uses' including kai, rongoa, fibres for kits, mats, tukutuku panels, and other crafts, and timber for carving, restoration, and construction of traditional buildings. Also, '[t]he collection of flora by tangata whenua may be ongoing' and, for that reason '[i]n some instances, it is appropriate for management of traditional cultural use to be undertaken through a process established between the Department and tangata whenua. This avoids the need for separate applications to be assessed for every instance of use.'⁹⁸⁸

985. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 450–451

986. National Parks and Reserves Authority, *General Policy* (1983), p 21 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1293)

987. Department of Conservation, *Te Urewera Park Management Plan, 1989–1999*, p 59

988. Department of Conservation, *Te Urewera National Park Management Plan*, pp 138–139

The two conditions on which non-commercial takings (only) of indigenous plants for traditional cultural uses can be permitted are then set out. They are that:

plants are not rare, vulnerable, or endangered, and the demands do not significantly impact on a population of species or other natural values;

The process is periodically reviewed by the Department in conjunction with tangata whenua to ensure that adverse effects do not occur. (policy 9.5.2(b))⁹⁸⁹

The management plan, it seems, had caught up with local practice. Evidence indicates that from the mid-1980s, park rangers were more willing to consult with local Maori leaders about harvests. Peter Williamson, who was the conservator of DOC's East Coast Hawke's Bay Conservancy at the time of our hearings, told us about the process agreed with the department over who could harvest pikopiko and how much. He was most likely referring to the informal understanding between the department and the Waikaremoana Maori Committee, noting it had been in place 'since at least 1986'. He explained that potential difficulties for park staff in identifying who was and who was not tangata whenua led to the arrangement to refer requests for pikopiko to local Maori.⁹⁹⁰ He did not mention any other agreement over managing cultural harvests of other plants, or indicate whether the pikopiko agreement has been extended beyond Waikaremoana.

A process of devolution of applications for taking of rongoa species to hapu committees was also put in place by the East Coast National Parks and Reserves Board from 1986:

In most instances, requests are forwarded to appropriate runanga for advice prior to the granting of a permit. The lack of permits does not, however, reflect a lack of demand or an institutional unwillingness to grant applications. Much of the administration for rongoa species has been devolved to hapu committees, avoiding the need for repeated and time-consuming application and granting of permits. Among other things, this reflects a willingness of tangata whenua to be involved in the management of rongoa species. The conservancy has also welcomed tangata whenua interest in propagating rare rongoa plants. Fees for permit applications – which otherwise start from \$100 – are waived in the case of harvests for cultural materials: 'Generally, no fees will be charged in the spirit of partnership.'⁹⁹¹

But it had taken many years to get to this point – and in those years fierce resentment had grown. Sir Rodney Gallen stated in his affidavit sworn for the Joint Ministerial Inquiry in 1998:

989. Ibid, p139

990. Williamson, brief of evidence (doc L10), p28

991. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 467–468. The quote is from acting director, protected species, to M Hosking, RC East Coast, 20 August 1996.

The Local people had been accustomed for generations to take produce from the bush in the area and in particular at certain times of the year, people of rank took the pikopiko fern in small quantities for food. This was stopped by the Park authorities and the manner of stopping was such that it created a degree of resentment which lasted for many years.⁹⁹²

A Ruatahuna kuia was quoted in the *Wairoa Star* in 1979 contrasting the rules against customary plant gathering in the national park with the rules in Whirinaki State Forest. The report said:

Recently a national park ranger found her [the kuia] gathering herbs and the food plants puha and piko piko – the Maori asparagus – just inside the boundary of the nearby Urewera Park. The plants she had gathered were confiscated and the old lady was warned not to repeat the offence. ‘We are free to collect our herbs and plants on Forestry land but the Maori people at Ruatahuna – who gave their tribal lands to the National Park – are not even allowed to gather their traditional medicines and foods,’ she claims.⁹⁹³

Coombes recorded that the chair of the Urewera National Park Board vigorously contested this claim, explaining the park’s policy and practice to a Government publicity officer in these terms:

No National Park Ranger has prevented any Maori from gathering puha or pikopiko from Urewera National Park since the matter was first raised in the early days of the existence of the Board over 17 years ago. The first Ranger appointed to the Park had asked Maoris found gathering these natural foods to desist as the area was now to be preserved and reported the incident to the Board with a request for a policy decision. The Board decided that notwithstanding the provisions of the National Parks Act, an exception would be made to allow the indigenous people their customary practice of gathering food provided the Maori people, in consideration of others, left roadsides and tracks untouched and gathered food a little deeper in the forest. The subject has on no occasion been before the Board since.⁹⁹⁴

The kuia was right about the rules, of course, and she had clearly had a very unfortunate experience which impressed on her the power of the ranger and doubtless left her both mystified and somewhat outraged.

992. Justice Gallen, affidavit, 9 April 1997 (‘Joint Ministerial Inquiry – Lake Waikaremoana: Report to the Minister of Maori Affairs, Hon Tau Henare, Minister of Conservation, Hon Nick Smith’, 27 August 1998 (doc H13), app 3, p 2)

993. ‘Halt to Logging Will Sound Death Knell for Maori Way of Life’, *Wairoa Star*, 23 October 1979, pp 4–5 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 457)

994. Chairman, Urewera National Park Board, to director of publicity, Tourist and Publicity Department, 17 October 1979 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 457–458)

At our hearings, claimants also expressed their dismay and long-held hurt over the way controls both caused offence and limited important food gathering activities and flax gathering for weaving. And the impacts went further, threatening the retention and transmission of local knowledge. As Maria Waiwai told us:

The direct result of these restrictions on the collection of kiekie for weaving and bark for dyeing has been that we have lost the art of weaving with the natural materials . . .

Now, we use Pakeha materials. My kete is made from Pakeha string and wool. In the olden days, people could gather their flaxes, and people knew how to strip them and what dyes to use. The technique is there, but because of the restrictions, why bother? My children are not interested in learning the traditional ways, as they can go to the shops and get plastic strips – it's easier than getting a permit. So much has been lost.⁹⁹⁵

The most recent *General Policy of the New Zealand Conservation Authority* (2005) recognises that customary uses of natural resources are not necessarily incompatible with national park purposes and principles. It defines customary use as '[g]athering and use of natural resources by tangata whenua according to tikanga' and provides that this may be allowed on a case-by-case basis where

- i) there is an established tradition of such use;
- ii) it is consistent with all relevant Acts, regulations, and the national park management plan;
- iii) the preservation of the species involved is not adversely affected;
- iv) the effects of use on national park values are not significant; and
- v) tangata whenua support the application. (policy 2(g))⁹⁹⁶

The policy allowed only for 'non-commercial' customary uses but it was amended in 2007 so that, now, any customary use, non-commercial or otherwise, may be allowed.⁹⁹⁷

We conclude, from our survey of national and local policies on hunting and plant harvesting, that the national parks legislation which failed to make any provision for Maori customary uses of park resources alongside recreational uses impacted particularly on resident Maori communities in Te Urewera and led to lasting tension there. That tension has arisen from the failure to recognise Maori customary uses on their own terms. Instead, those communities have felt that they were regarded no differently from park visitors – a matter of considerable resentment. The symbol of this failure to respect their hunting and harvesting rights

995. Maria Waiwai, brief of evidence, no date (doc H18), pp15–16

996. New Zealand Conservation Authority, *General Policy for National Parks* (Wellington: Department of Conservation, 2005), pp16, 62

997. Department of Conservation, 'General Policy for National Parks', <http://www.doc.govt.nz/publications/about-doc/role/policies-and-plans/general-policy-for-national-parks>, accessed 5 October 2012

exercised for generations has been the permit or, in broader terms, the imposition of an external authority over their own tikanga – which was felt to be both unnecessary and inappropriate.

If we compare the authorities' treatment of hunting as opposed to plant harvesting in the park, it is clear that, over time, both nationwide and local park policies have moved from an unwillingness to accept and make provision for pikopiko harvesting in particular, to a readiness to provide for informal agreements and control by local committees on the ground. We might suspect that once park administrators had come to terms with the concept of sustainable use of resources in parks, and the principles of tikanga governing such uses, it was not as hard to provide for traditional plant harvesting as for traditional hunting – it was neither visible, nor damaging, and it did not arouse strong public opposition.

Harvesting was clearly understood to be contrary to the Act's strong emphasis on preservation of indigenous plant life. The park board knew in 1962, as did the National Parks Authority, that pikopiko harvesting by local people in accordance with tikanga did not damage the plant. Yet, the Act was unable to be used to recognise customary gathering in accordance with tikanga under the authority of hapu without oversight by park staff. It did empower the authority to approve the board granting permission to cut native plants. In other words, a formal authority-approved park board policy might have allowed pikopiko harvesting much earlier on express conditions consistent with tikanga (detailing the season of taking, and quantities) – putting beyond doubt the rights of the peoples of Te Urewera to continue that custom. Instead, the board pinned its hopes initially on education to stop the practice. This was simply insulting to the people. The park board (with the approval of the national authority) resolved the difficulty by permitting local people to take pikopiko and other native plants from the 1960s, subject to conditions they set, until traditional harvests were formally recognised in park policy in 1989.

The use of horses and dogs for hunting was a different proposition for the boards. As we have seen, local park authorities began by trying to accommodate the hunting traditions of local Maori communities. But because other hunters also wanted to take horses and dogs into the park, and the numbers of animals increased – raising concerns for park vegetation and ground birds – local boards found it difficult to maintain their stance. They were susceptible, as we have seen, to farming and park visitor pressure. Hunting dogs were banned (in the early 1970s), but then reinstated after pressure from park hunters. Horses had a somewhat different history after the creation of the park. Before 1971, Maori traditional uses were informally provided for in Te Urewera. Because of an increase in the number of non-local hunters, a permit system was introduced in the early 1970s, which recognised customary uses. But the 1989 management plan marked a turning point, as more pressure from visitors led to their accommodation by 1983 – at the cost of recognition of Maori traditional uses, and restriction of all horse users to particular parts of the park. Maori attempts to secure recognition of the right to use traditional tracks in other parts of the park went unheeded.

It is difficult to understand why there has been so little initiative shown to tackle the issue of exercise of traditional rights in parks, once its importance became clear to administrators. Above all, it seems surprising that over many years no attempt was made to effect a simple amendment of the National Parks Act, so that customary uses might have been provided for alongside recreational uses. We return to this question in our Conclusions at the end of this section.

16.8.4.4 *Wahi tapu and taonga*

A further key issue for the claimants arising from the creation of the park has been the destructive impact of park visitors on important sites of cultural significance to them, both on park land and on nearby Maori-owned land. The evidence shows that during the park's lifetime, and especially in its earlier years, there have been numerous instances of interference with or damage to such sites. For example, tracks in the park have been constructed very close to (or in one case through) urupa, burial caves around the shores of Lake Waikaremoana and at Maungapohatu have been plundered for artefacts, other taonga, including moa bones and a kereru trough, have been removed from their resting places, and Rua Kenana's house at Maungapohatu has been looted, as have other whare and former pa sites, and a former wharenuī on one of the Waikaremoana reserves has been burnt down.⁹⁹⁸ In the late 1970s, local Maori became so frustrated and dismayed with the theft and vandalism of Rua's former wharenuī in Maungapohatu that they burnt it down (see the sidebar over).⁹⁹⁹

In their 1986 report, Stokes, Milroy, and Melbourne discussed the situation at Lake Waikaremoana:

There are many other wahi tapu, including pa and urupa, which are not in the Maori Reserves. These are still regarded just as much wahi tapu as those that are still Maori-owned. The local people are philosophical. 'Much of the damage has already been done' in the way of plundering artefacts in particular. 'They can't do much more harm.'¹⁰⁰⁰

That report also observed that because the lake provides access to so many sites of cultural significance, the issues of site protection, including what information is given to park visitors about sites, are of particular importance at Waikaremoana.¹⁰⁰¹

Claimants have identified a number of factors connected to the park or its administration that have contributed to the thefts of and damage to taonga on park land and on adjacent Maori land. They include:

- ▶ that all comers have free access to the national park;
- ▶ the lack of clear signage or other means of showing the boundary between park land and private land;

998. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), p 223; Paine, brief of evidence (doc H20); Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 149–154

999. Stokes, Milroy, and Melbourne, *Te Urewera* (doc A111), pp 333–334

1000. *Ibid*, p 223

1001. *Ibid*

The Vandalism of Rua Kenana's House

After visiting Rua's second house called Maai with Reverend JG Laughton in late 1964, Peter Webster (sent by the Historic Places Trust to assess whether Rua's house and the Presbyterian Mission House should be protected) commented: 'it was clear that the place had already been ransacked. Papers and personal belongings of Rua and his relatives were lying everywhere.' He added:

Laughton was appalled, and I realised from his remarks that we had come too late. Apart from the heavy iron and brass double beds, some odd bits of furniture, and stained religious pictures on the walls, there was little left. Almost everything of value had been looted by Pakeha trampers, hunters, and casual visitors to the settlement since the recent opening of the milling road. All that was left of a personal nature were two of Rua's Bibles and a few miscellaneous papers which we placed in an old tin box from Rua's own room. We carried this away for safekeeping by Laughton.¹

1. Peter Webster, *Rua and the Maori Millennium* (Wellington: Victoria University Press, 1979) (doc K1), pp 8, 41

- ▶ the publicity that is or has been given to certain sites in information prepared by or available from the park;
- ▶ the proximity of park tracks to some sites, which increases the risk of inadvertent damage to them;
- ▶ the tardiness of the park's administrators in responding to concerns from the peoples of Te Urewera about damage to significant sites on park land; and
- ▶ park administrators' lack of authority to expend resources protecting sites on Maori land, even when park visitors' actions render protection necessary.

All of those factors are apparent in the example, examined later, of the Maungapohatu Burial Reserve, which is located within the national park. In 1979, Chief Ranger Bell commented about this wahi tapu in a report about access to the park:

To the east of the Valley is the Maungapohatu Burial Reserve. A very sacred place. In spite of this it is clearly identified on maps and in Park publications. This advertising, as such, couched as it is in descriptive, decorative detail is, in itself, a major enticement to the more curious among us. This in turn leads to upsets, differences of opinion and, unfortunately, a hardening of attitudes.¹⁰⁰²

1002. DF Bell, chief ranger, to chairman, Urewera National Park Board, 'Report on Access to Maungapohatu', 26 July 1979 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p134)

THE best safeguard for remote burial grounds is lack of publicity or publication.’

Tama Nikora to Evelyn Stokes, 21 April 1986¹

1. Brad Coombes, ‘Preserving a “Great National Playing Area” – Conservation Conflicts and Contradictions, 1954–2003’ (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), p 145

In Bell’s opinion, publicising the reserve had given an incentive to park visitors to inspect the graves, despite their being on Maori-owned land and tapu, so that any intrusions are extremely offensive to the peoples of Te Urewera. Claimants share the concern that publicity about the nature of the site attracts would-be vandals and looters and, at our hearing, recommended that park maps and other information refer to it only as the ‘Maungapohatu Reserve.’¹⁰⁰³

The question of safeguarding wahi tapu thus raises the related question of trespass by park visitors on Maori land. The public have legal access through Maori land within the park over the roadlines formed as part of the Urewera Consolidation Scheme, from Maungapohatu to the upper Waimana Valley and from Ruatahuna to Ruatoki, that were promised but only partially built (see chapter 14). These roadlines now form the basis of important tracks within the park, and provide essential legal access to Maori land within it. The policies of the National Parks Authority and its successors have not addressed the issue of the public trespassing on Maori land, or any other privately owned land, within a national park. The 1964 *General Policy* set down a policy ‘to ensure appropriate signposting of boundaries.’¹⁰⁰⁴ The 1978 *General Policy* did not include any policy specifically requiring signposting of boundaries. Instead, it mentioned that boundaries should be determined in a way that is ‘convenient’ for the ‘occupier of adjacent land’ while ensuring maximum public access to the park.¹⁰⁰⁵ Both the 1983 and 2005 general policy statements contain identical policies that park boundaries ‘may be’ signposted.¹⁰⁰⁶ Hence such signposting is optional.

The 1976 Te Urewera National Park management plan did not include any

1003. Tamaroa Nikora, brief of evidence, 16 February 2005 (doc K14), p 8

1004. National Parks Authority, *General Policy for National Parks* (1964), p 5 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1251)

1005. National Parks Authority, *General Policy for National Parks* (1978), p 3.6 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1265); National Parks and Reserves Authority, *General Policy for National Parks* (1983), p 18 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1292)

1006. National Parks and Reserves Authority, *General Policy for National Parks* (1983), p 45 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1305); New Zealand Conservation Authority, *General Policy for National Parks*, p 39

specific reference to trespass on Maori land, or to erecting appropriate signposting of the boundaries of that land. Instead, when it noted Maori land within the park, and tramping routes through it, it was in the context of the park's need to acquire that land.¹⁰⁰⁷ The 1989 management plan was the first to mention the issue of trespass:

As Maori culture is a significant element in the park, careful and sensitive monitoring of the impacts of the park users, facilities and interpretation is needed. There are real and potential conflicts between local people and visitors. Trespassing by park visitors on private land, for example, does not contribute to good relations between local people, visitors and the Department.¹⁰⁰⁸

Recognising the tensions, it outlined policies fostering liaison 'with adjoining landowners in an endeavour to establish or maintain where desirable controlled legal public access over private land to the park', and to clearly define and maintain '[a]ccess to the park over private land'.¹⁰⁰⁹ The 2003 management plan contains the same policies, though they are somewhat more extensive: DOC will clearly define boundaries with the consent of the landowners where legal access over private land has been negotiated; and DOC will 'provide information on public access opportunities to and within the park and raise awareness of the rights and responsibilities involved when crossing private land'.¹⁰¹⁰ Thus the 2003 plan is the first to include a policy which requires park administrators to provide information about crossing private land *within* the park, not just clearly defining access *to* the park over adjacent private land.

Another concern about the park administration's approach is that it has been insufficiently sensitive to the responsibilities of the peoples of Te Urewera as kaitiaki of artefacts and other historic taonga. An early example relates to the National Parks Authority's advice to park boards in 1953, to budget for museums and displays of objects of local interest. The advice was elaborated in 1961, in these terms:

all park boards would be well advised to commence immediately the collection of material suitable for exhibition, with the long term object of having museums in all parks. Suitable material could cover such things as geological specimens, general historical material, historical photographs, Maori artefacts, etc.¹⁰¹¹

Highlighting that policy's lack of attention to issues of ownership of Maori artefacts, Coombes described three instances where the policy was followed in Te

1007. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, pp 17–18

1008. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, p 33 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1399)

1009. *Ibid*, p 69 (p 1414)

1010. Department of Conservation, *Te Urewera National Park Management Plan*, p 92

1011. DNR Webb, Director-General of Lands to commissioner of Crown lands, 'National Park Museums', 8 November 1961 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 141)

Urewera – relating to the return of a waka that had been taken out of the park, the discovery of a waka kereru (pigeon trough) in the park by a member of the public, and the discovery of a pataka by a park ranger.¹⁰¹² In the first two instances, local Maori were not notified at all about the discoveries and, in the third, the park board initially decided to consult with the Tuhoe Trust Board but later abandoned the idea.

A closely related issue is that, as kaitiaki, the peoples of Te Urewera may be reluctant to disclose the location of certain historic sites to outsiders, let alone permit exploration of them, for fear this will lead to the sites being harmed. One example cited by Coombes is the Tuhoe-Waikaremoana Maori Trust Board's refusal in 1984 to allow the Historic Places Trust to survey Tuhoe land in the Whakatane/Ohinemataroa and Waimana Valleys as part of its study of archaeological sites in the area. The trust board explained to the local press that it feared 'curious visitors' would not respect the land and it wanted more information about what would be done with the survey information and to whom it would be available. The Historic Places Trust's senior archaeologist was reported as saying that Tuhoe's fears were groundless, and yet a survey map of archaeological sites from the 1984 study was published in the *Whakatane Beacon* soon after its completion.¹⁰¹³ For these reasons, which Coombes described as insensitivity to 'cultural politics',¹⁰¹⁴ he was critical of the 1976 Te Urewera National Park Management Plan's general policy to 'keep a record of all known historic sites' in the park and to 'seek professional advice as to their interpretation and preservation.'¹⁰¹⁵ That policy continues:

In the case of Maori burial grounds and similar places within the Park the Board will seek the advice and assistance of the local Maori people as how best to protect these areas and ensure they are in no way damaged by vandals and that their significance to the Tuhoe people is in no way diminished or detracted from by the Park visitor.¹⁰¹⁶

Te Awekotuku and Nikora referred to the publication, very close to the finalising of the 1976 park management plan, of an official souvenir booklet by Gallen and North,¹⁰¹⁷ two Pakeha men with strong links to Tuhoe. They describe the booklet as 'a violation of Tuhoe property rights and the sanctity of wahi tapu' because its authors, 'in specific detail, identify, name and locate (with map coordinates) the

1012. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp142–143

1013. 'Talks on Surveying Delayed', *Whakatane Beacon*, 20 February 1985 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p147); 'Pa Sites', *Whakatane Beacon*, 15 August 1984 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p147)

1014. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p139

1015. Urewera National Park Board, *Urewera National Park Management Plan, 1976*, p40 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p139)

1016. Ibid

1017. Rodney Gallen and Allan North, *A Souvenir Booklet of Waikaremoana, Wairau-moana, Waikare-iti: A Concise History of the Lakes, the People and the Land* (Hamilton: Urewera National Park Board, 1977)

very sites, including those on privately owned Tuhoe land, which a Tuhoe elder had stressed to be an exclusively Tuhoe controlled heritage.¹⁰¹⁸

The 1983 *General Policy* notes that in preserving sites and objects of archaeological and historic importance, it is sometimes appropriate to identify and mark them. The criteria for identifying persons, places, or events of national or historic significance are those '[p]ersons who have had a significant impact on New Zealand history and who were associated with the park', '[e]vents which have played an important part in the history of the park', '[p]laces which have shed light on or illustrated earlier cultures or are associated with important archaeological discoveries', and '[s]tructures which are of particular historical importance'.¹⁰¹⁹

From the late 1980s, policy has become more sensitive to Maori concerns. The 1989 management plan noted that care and sensitivity were needed regarding publicising wahi tapu sites. It acknowledged that identifying the locations of wahi tapu had contributed to vandalism of many sites within the park and the taking of artefacts, which to Maori 'represents desecration of the tapu on such places'.¹⁰²⁰ Its solution was to offer policies based on 'full consultation with tribal representatives' over such matters, and to respect the wishes of Maori if release of information about the location of sites was contemplated.¹⁰²¹

More recently, there has also been a shift towards attempts to involve Maori, to some degree, in the decision-making about the management of wahi tapu sites.¹⁰²² For example, the 2002 historic resources strategic work plan of the East Coast Hawke's Bay Conservancy has stated:

working with iwi is central to the conservancy's approach to managing historic heritage

[the] Conservancy is committed to iwi involvement in the decision making processes and management of historic heritage of importance to Maori. Co-operative management of all sites of cultural importance begins with protection from negative actions by the Department and the public. Interpretation of sites of significance to Maori will only be undertaken with their agreement and assistance.¹⁰²³

However, as DOC's draft wahi tapu policy guidelines note, the statute book limits DOC's delegation of decision-making powers – it is applicable to some

1018. Te Awakotuku and Nikora, summary of 'Nga Taonga o Te Urewera' (doc J3), pp 14–15

1019. National Parks and Reserves Authority, *General Policy* (1983), p 34 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1300)

1020. Department of Conservation, *Te Urewera National Park Management Plan, 1989–1999*, pp 31–32

1021. *Ibid*, p 57

1022. *Ibid*, p 65

1023. Department of Conservation, *East Coast Hawke's Bay Historic Resources Strategic Work Plan, 2001/2002–2005/2006* (Gisborne: Department of Conservation, 2002), p 6 (Williamson, attachments to brief of evidence (doc L10(a)), attachment H)

classifications of sites but not others.¹⁰²⁴ Those guidelines set out that DOC ought to negotiate agreements and protocols with Maori about storing taonga, and protecting and managing wahi tapu; and recognises that wahi tapu ‘can be identified or assessed only by tangata whenua and that cultural knowledge of waahi tapu is intellectual property with whanau, hapu, and iwi’.¹⁰²⁵

The draft policy suggests some practical solutions to protecting sites of cultural and spiritual significance. It suggests that local Maori have full, unrestricted access to their sites, but that DOC managers consider various measures to restrict public access to sites, namely:

- ▶ realigning tracks away from wahi tapu;
- ▶ acquiring alternative access;
- ▶ promoting alternative sites for recreational use;
- ▶ encouraging respect for wahi tapu;
- ▶ where appropriate, discouraging access through erecting discrete signs; and
- ▶ where appropriate, using by-laws to exclude or control public access.¹⁰²⁶

We are uncertain, from the evidence before us, how many of these suggestions have been implemented.

Glenn Mitchell, the area manager of the Waikaremoana sector of the park, told us that when they receive requests to identify the location of pa sites from members of the public, they do not do so ‘because they are culturally important to Maori, and we have been asked not to identify them.’¹⁰²⁷ They also attempt to ensure they are not disturbing wahi tapu sites during their work. They do this by examining their own confidential records of sites and asking hapu representatives who attend their planning meetings if the site is tapu or otherwise culturally significant.¹⁰²⁸ Mitchell added that: ‘We are aware also and comfortable with the knowledge that hapu and iwi choose not to disclose many of the wahi tapu known to them.’¹⁰²⁹

Mitchell acknowledged the mistake of publishing maps which show the location of wahi tapu, and said DOC has taken steps to correct this, particularly by deleting these references when they reprint maps. He assured us that all references to wahi tapu will be removed in the next print run of maps.¹⁰³⁰

Yet, there are other indications that problems persisted into the DOC era. As we shall see below regarding the Maungapohatu Burial Reserve, it appears that tracks

1024. Department of Conservation, ‘Waahi Tapu Policy Guidelines – Draft Policy’, [circa 2005], pp 2, 4 (Williamson, attachments to brief of evidence (doc L10(a)), attachment 1). The draft policy also suggests that opportunities be given to Maori on a case-by-case basis to ‘exercise an effective degree of participation and control in the protection and management of waahi tapu’.

1025. Department of Conservation, ‘Waahi Tapu Policy Guidelines – Draft Policy’, p 3 (Williamson, attachments to brief of evidence (doc L10(a)), attachment 1)

1026. *Ibid*, p 5

1027. Mitchell, brief of evidence (doc L9), p 25

1028. *Ibid*

1029. *Ibid*, p 26

1030. *Ibid*

have not been realigned away from burial caves, as claimants have requested. And Sidney Paine told us that in the mid-1990s DOC had been remiss in dealing with an issue of access to a wahi tapu. He had noted, while working in the late 1980s for the Department of Lands and Survey carrying out track maintenance, that their foreman, Te Kapua Taea, always recited a karakia when they worked ‘at . . . one particular place’ on the promontory east of Te Onepoto. Later, Mr Paine learned that the pa sites Te Kapua referred to were Te Pou-o-Tumatawhero and Te Tukutuku-o-Heihei (on the significance of these pa, see chapter 7). Later, in 1996, a member of the public cut a track to Tukutuku-o-Heihei pa site and erected signage indicating to the public that the (unauthorised) track led to the historic pa. Mr Paine claimed that DOC did not object to this action. Two years later, DOC ordered a tree-felling gang to remove pine trees in the area, and damage to the remnants of the exposed pa site was caused.¹⁰³¹

16.8.4.5 *The Maungapohatu Burial Reserve*

Since the national park has been established, there have been several recorded instances of passing trampers and others since at least the 1960s desecrating graves and burial caves on the sacred maunga of Tuhoe, Maungapohatu. A track, called ‘Rua’s track’, passes directly below the northern and north-eastern escarpment of the maunga, and trampers often camp near its north-eastern face. In chapter 15, we have examined the Crown’s failure to set aside the Maungapohatu mountain burial reserve in the 1920s, and its eventual return to Tuhoe more than 50 years later. When the Te Urewera National Park was created, the reserve became an island surrounded by park lands. Soon after the public gained better access to Maungapohatu after the logging road was opened, members of the Maungapohatu Incorporation complained to the Lands and Survey Department in 1964 about interference with graves in the burial reserve.¹⁰³² Buddy Nikora, on behalf of the Tuhoe-Waikaremoana Trust Board, also wrote to the secretary of the park board in 1982, noting further desecration of the urupa had occurred.¹⁰³³

The claimants submitted that the land returned in 1977 did not contain all of the urupa on the maunga. They argued that the original 1924 survey did not include all the burial grounds so neither does the land returned to them: some graves are in the national park and, because walking tracks are close by, they risk unintentional interference from park visitors.¹⁰³⁴ In its closing submissions, Crown counsel conceded that the Urewera commissioners did not reserve ‘certain urupa at Maungapohatu.’¹⁰³⁵ Yet, the Crown denied, due to insufficient knowledge, that it

1031. Paine, brief of evidence (doc H20), pp 14–16, 18

1032. Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), p 255

1033. T B Nikora, secretary, Tuhoe-Waikaremoana Maori Trust Board, ‘Maungapohatu mountain burial reserve’, to secretary, East Coast National Parks and Reserves Board, 2 June 1982 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 152)

1034. Counsel for Wai 36 Tuhoe, closing submissions, pt A (doc N8), p 77; counsel for Wai 36 Tuhoe-Waikaremoana Maori Trust Board, closing submissions, pt B (doc N8(a)), pp 200, 223

1035. Crown counsel, closing submissions (doc N20), topics 18–26, p 43

'THE burial sites that I have referred to are still there, unprotected, waiting for the curious and light-fingered to stumble across them.

'This is absolutely unacceptable and it needs to be addressed. We can't be everywhere to police all our waahi tapu and keep trampers out, and the number of trampers is only going to increase.

'The trampers are not our manuhiri – they are the Crown's manuhiri – and the Crown needs to take responsibility and make sure that they aren't wandering all over our waahi tapu.'

Korotau Basil Tamiana¹

1. Korotau Basil Tamiana, brief of evidence, 16 February 2005 (doc K16), p 3

had failed to ensure that all graves were included in the reserve and made no further submission on the matter.¹⁰³⁶

Claimants Korotau Basil Tamiana and Tama Nikora gave evidence on this matter. Tamiana – who worked in the 1970s for the Department of Lands and Survey – described the discovery of one gravesite:

In the late 1970s I was supervising a track maintenance gang repairing a track from Te Tii, at Maungapohatu, to Waimaha . . . We were working to the North-east of the Burial Reserve, directly below Tu Te Maungaroa when we uncovered a burial site. The site was a small tomo, or cave, which contained skeletons.

The tomo was definitely outside the area marked as the Maungapohatu Burial Reserve. If you look at a map of the Reserve you will see that Tu Te Maungaroa is the North-eastern corner of the Reserve, and we were to the North-east of Tu Te Maungaroa.¹⁰³⁷

Following a number of other incidents and discussions with elders, Tamiana came to three conclusions:

Firstly, the Maungapohatu Burial Reserve doesn't contain all the burial sites at Maungapohatu. Secondly, because the locations of burial sites are always kept within the family . . . then it must be our tupuna who are buried there. Thirdly, trampers are, through no fault of their own, cooking their kai and doing other activities in the middle of our tupuna's urupa. That's offensive, even if it's not intended.¹⁰³⁸

1036. Ibid, p 46

1037. Korotau Basil Tamiana, brief of evidence, 16 February 2005 (doc K16), p 1

1038. Ibid, pp 2–3



Lloyd Homer

Maungapohatu. Burial sites in the region have been subjected to repeated – if often unintentional – disturbance and desecration by non-Tuhoë users of the park.

Tamiana added: ‘The trampers are not our manuhiri – they are the Crown’s manuhiri – and the Crown needs to take responsibility and make sure that they aren’t wandered all over our wahi tapu.’¹⁰³⁹

How could the 1924 survey have excluded a number of graves? According to Nikora, the survey plan was ‘defined by triangulation and by some estimate of boundaries,’ and that the boundary of the north-eastern extremity of the reserve (near the area that contains the graves described by Tamiana) was based on the high point of Tu-te-Maunga-roa, as was marked on the map of the survey plan.¹⁰⁴⁰ Hence, Nikora believes that the burial sites below the high point, on the north-east face and slope of the maunga, are outside the reserve.

Nikora also argued that Maori were not consulted about the fixing of the boundaries of the reserve in 1924, when section 5 of the Urewera Lands Act 1921–22 required that the Urewera commissioners, while being the ‘sole judges of the location and boundaries of the portions so awarded to the Crown,’ ‘shall, in fixing

1039. Korotau Basil Tamiana, brief of evidence, 16 February 2005 (doc K16), p3

1040. Nikora, brief of evidence (doc K14), pp 6, 7

any boundary, consult so far as practicable the wishes and convenience of the [Maoris].¹⁰⁴¹

However, in 1982, the chief ranger investigated this matter in response to concerns expressed by Buddy Nikora, on behalf of the Tuhoe-Waikaremoana Maori Trust Board, that ‘some of the burial areas may not be within the Maungapohatu Mountain Burial Reserve’ but ‘actually in the National Park’. Buddy Nikora suggested that ‘the survey lines may have been incorrectly drawn.’¹⁰⁴² The park board sent the chief ranger (JC Blount) to ‘liaise with locals about locations’ and had the senior surveyor of the Land District investigate historical records.¹⁰⁴³ The chief ranger then arranged to meet Mr Tahuri, the farm lessee at Maungapohatu, for a joint inspection of the burial reserve. Tahuri lived at Maungapohatu at the time, farming the land which was leased from the Maungapohatu Incorporation, of which he had been president in 1976. He was also an original member of the Tuhoe Maori trust board. Mr Blount’s later letter to Mr Tahuri states:

I am pleased that our recent inspection with you of the burial area’s has satisfied you that the graves about which you were concerned are well within the protected area. Should you positively identify any further graves then we would be happy to come back for a further inspection.¹⁰⁴⁴

No further exchanges about the reserve occurred.¹⁰⁴⁵

It is unclear from the evidence presented to us whether the chief ranger checked the 1924 survey plan, or was given the plan by the senior surveyor. Furthermore, the chief ranger may have been unaware of, or could not find the exact location of, the graves uncovered by Korotau Tamiana.¹⁰⁴⁶ The 1924 survey map, although crudely drawn, shows that parts of the eastern and the north-eastern side of the mountain (marked by hachure lines to denote a steep gradient) are outside the reserve. It also shows that the north-eastern point of the reserve is the peak Tu-te-Maunga-roa, thus the parts of the maunga below this point to the north and north-east appear to be outside the reserve.¹⁰⁴⁷ Further, a Department of Lands and Survey cadastral map from 1964 even more clearly shows that the north-eastern point of the ‘Maungapohatu mountain urupa’ is the peak of ‘Maungapohatu no 2’ (another name for Tu Te Maungaroa), and that the area to the north-east of

1041. Urewera Lands Act 1921–22, s 5 (Nikora, brief of evidence (doc K14), p 7)

1042. TB Nikora, secretary, Tuhoe-Waikaremoana Maori Trust Board, to secretary, East Coast National Parks and Reserves Board, ‘Maungapohatu Mountain Burial Reserve’, 2 June 1982 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 152–153)

1043. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 153

1044. JC Blount, chief ranger, to J Tahuri, ‘Re: Inspection Maungapohatu Burial Reserve’, 8 October 1982 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 153)

1045. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 153

1046. Tamiana stated he did not raise concerns about the matter within Lands and Survey at the time because he wanted to retain his job and provide for his whanau: Korotau Basil Tamiana, oral evidence, Mapou Marae, Maungapohatu, 23 February 2005.

1047. Thomson and Farrer, ‘Plan of Maungapohatu Mountain Burial Reserve’, July 1924 (Easthope, ‘Maungapohatu and Tauranga Blocks’ (doc A23), map 20)

that peak where Tamiana found an urupa near the Waingarō Stream and a camp-site is plainly well outside the reserve.¹⁰⁴⁸ The Māori Land Court and Lands Information New Zealand both informed us that they had no records of any survey being undertaken of the reserve since the original survey in 1924.

Overall, it appears that the 1924 survey did not include all urupa within the reserve, and hence we recommend that this important matter be investigated. Nikora suggested to us a list of measures that would offer greater protection to this hugely important wahi tapu site for Tuhoe:

- (a) That the existing National Park track close to Maungapohatu Mountain Reserve should be closed or sited far further away from the burial sites as [a] means to dissuade visitors.
- (b) That the Crown, at its own expense correct its survey of Maungapohatu Mountain Reserve to include the burial sites. A GPS survey to be initially carried with Mr Tamiana as a guide, to check the position.
- (c) That the reference to 'Burial' in the name 'Maungapohatu Mountain Burial Reserve' be deleted from all published maps as some means not to attract vandals.¹⁰⁴⁹

Such measures offer a clear way forward.¹⁰⁵⁰

16.8.4.6 Care of Taonga

In respect of the care of taonga in the park we have referred above to the tensions caused by the initial differences between Tuhoe and the park administrators over displays at the Aniwanīwa Centre. But Te Awēkotuku and Nikora refer to a much-improved relationship between local Māori and the Aniwanīwa Centre administration by about the mid-1980s, following the establishment of the new East Coast National Parks and Reserves Board in 1980. This administration, they suggested, had a 'new vision, a new budget, and some intriguing new directions.'¹⁰⁵¹ This was evident in the purchase at auction by DOC of the iconic Rua Tupua flag – a flag made by the Rongowhakaata people of Pakowhai for Rua when he went 'to meet the king.'¹⁰⁵² They saw the repatriation of the flag as 'a beginning, a shift away from earlier practice and attitudes.'¹⁰⁵³

By 1999, DOC had a draft collections policy for Aniwanīwa Museum, a policy which it abides by in the interim; it emphasises the participation of iwi and hapu

1048. New Zealand Cadastral Map NZMS 177 Maungapohatu Sheet N96, Maungapohatu Reserve Kakewahine Block, 1964, LINZ, Hamilton (Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), map 28)

1049. Nikora, brief of evidence (doc K14), p 8

1050. It is pleasing to note that the most recent topographical map (updated in 2010) displays the name 'Maungapohatu Reserve': <http://www.topomap.co.nz/NZTopoMap/nz56309/Maungapohatu/Bay-of-Plenty>, accessed 12 August 2012.

1051. Te Awēkotuku and Nikora, 'Nga Taonga o Te Urewera' (doc B6), p 47

1052. Binney, Chaplin, and Wallace, *Mihaia*, pp 27–28 (doc A112)

1053. Te Awēkotuku and Nikora, 'Nga Taonga o Te Urewera' (doc B6), p 47

in the storage and management of taonga. The policy itself is approved by DOC, the Waikaremoana Maori Committee, and the Tuhoe Manawaru Tribal Executive.¹⁰⁵⁴ To give examples of how this policy works in practice, Mitchell told us that in 1994 representatives from the Waikaremoana Maori Committee worked with DOC to set up a museum and visitor centre joint review team, which redesigned the taonga gallery in Aniwanui, opened in 2000. The gallery was named Nga Taonga Tuku Iho by the hapu representatives. Whariki and tukutuku panels had been made by Tuai kuia Maria Waiwai and her whanau.¹⁰⁵⁵ Further, a joint DOC and hapu management team (from Waikaremoana and Ruatahuna) carry out all planning activities for the museum, including the managing of displays.¹⁰⁵⁶ An example of their collections policy in practice is the collection of Irene Paulger, the teacher and nurse at Maungapohatu, whose valuable collection (originally deposited in Taranaki Museum) was arranged to be moved to the museum in 2000:

The Department has an agreement with Tamakaimoana hapu that the collection remains in the ownership of the hapu, that it is held in safekeeping, that it is not to be displayed or loaned to any other party. The agreement expires annually and is renewed annually, so that as staff and kaumatua move on it is not lost sight of.¹⁰⁵⁷

The policy also states that acquisitions for the museum shall be made for items of historic and cultural significance to Te Urewera National Park, and to Tuhoe and Ngati Ruapani; that items are acquired with the full and equal consideration of the viewpoints and values of both DOC and Maori; that items are to remain on site if possible, and if they are removed, they ought to be returned to the original location where they were found if appropriate; and if the item cannot be returned, then it can only be acquired by consulting local Maori.¹⁰⁵⁸

But Nikora and Te Awekotuku believe that this joint arrangement is an exception and ‘probably more a reflection of particular staff and their individual relationships with Tuhoe, rather than a result of institutional will.’¹⁰⁵⁹ In any case, they point out that the vast majority of Tuhoe taonga are held in museums and private collections outside Te Urewera; consequently, Tuhoe do not have any control or say in the management of them.¹⁰⁶⁰ Repatriation to Tuhoe of their taonga has only occurred on a few occasions. The *General Policy* states: ‘Tangata whenua, as kai-tiaki of their historical and cultural heritage, should be invited to participate in the identification, preservation and management of that heritage in national parks.’¹⁰⁶¹

1054. Department of Conservation, ‘Draft Aniwanui Area Office Collections Policy for Aniwanui Museum’, 1999 (Mitchell, attachments to evidence (doc L9(a)), attachment o)

1055. Mitchell, brief of evidence (doc L9), p 21

1056. *Ibid*, pp 24–25

1057. Mitchell, brief of evidence (doc L9), pp 24–25

1058. Department of Conservation, ‘Draft Aniwanui Area Office Collections Policy for Aniwanui Museum’, 1999 (Mitchell, attachments to evidence (doc L9(a)), attachment o)

1059. Te Awekotuku and Nikora, ‘Nga Taonga o Te Urewera’ (doc B6), p 89

1060. *Ibid*, pp 88–89

1061. New Zealand Conservation Authority, *General Policy* (2005), p 29, see also p 16

16.8.4.7 The park's effect on kaitiaki responsibilities – conclusions

The experience of iwi in respect of their wahi tapu and taonga since the national park was created has not been a happy one; it has put added strain on the relationship between communities and park administrators. There has been a lack of protection of sites: many taonga have been stolen, destroyed, or vandalised, particularly in the early years of the park, and particularly in remote or unpopulated areas. While we recognise that it may have been very difficult for park administration to patrol sites, there seems to have been little thought given at that time to measures to protect such sites. This might seem surprising, given the number of visitors who began to come into the park. But in light of the general unwillingness of the board initially to acknowledge the long history of iwi occupation in the area, it seems less so. The sad result in any case was that major sites at Maungapohatu and Waikaremoana and elsewhere were desecrated and plundered.

Initial park policy moreover was to acquire taonga within the park with little or no regard for iwi wishes, concerns, or values. But, by the 1990s, park administrators had emphasised the participation of iwi and hapu in the storage and management of taonga, and had established a joint management committee for the storage and management of taonga at Aniwanuiwa Museum. They had also accepted that ownership of taonga should remain with Maori, and acquisition only occurs with the assent of local people. Preference is given to taonga staying in situ rather than being removed. As with many of the initiatives in the Waikaremoana sector of the park, however, it appears such policies are based on the strong and sympathetic relationship of local staff and their area manager with local Maori, built up over many years, rather than a park-wide approach; we were not presented with any evidence that such a cooperative process to handling taonga exists elsewhere in Te Urewera. The loss of the museum, moreover, has dealt a real blow to this arrangement. Further, the vast majority of taonga held by museums and private collectors are outside Te Urewera.

Policies in recent years have also tried to mitigate the tension between free public access to the park and respect for wahi tapu. While we lack evidence on how such policies are working on the ground, the results seem mixed. On the one hand, it does not appear that the walking tracks have been diverted away from the Maungapohatu burial ground, though as we noted above, the name itself has now been changed on the most recent topographical map to Maungapohatu Reserve. There remains an issue about urupa which are not included in the reserve. On the other hand, there have been some efforts for greater protection of wahi tapu by removing their locations from maps when they are republished (though unfortunately many copies of old maps, brochures, and booklets are still in circulation). There has been consultation about the location of new facilities and DOC activities in the park so that wahi tapu are not disturbed. And there is DOC respect for Maori not wanting to disclose to them the location of many wahi tapu and battle sites.

It is pleasing to note that the 2005 *General Policy* of the Conservation Authority gives greater effect to the Crown's duty to actively protect sites, and the need for

Maori participation and consultation regarding the identification, preservation, and management of their heritage in national parks:

As part of its duty to actively protect the interests of tangata whenua, the Crown has responsibilities for preservation of sites of significance to them. Some sites of significance are known only to tangata whenua and are not identified publicly, in order to protect them.

16.8.5 Conclusions

Te Urewera National Park is unique in New Zealand for its intimate proximity to resident Maori communities who belong to the park lands, yet that defining feature of the park has not been recognised and provided for in national park law and policy. The evidence reveals that the experiences of the peoples of Te Urewera with the national park have been, and remain, characterised by the fundamental clash between their cultural values and those of the national parks regime. With law and policy on its side, the national park system has survived the collision largely unscathed, but also at further cost to the Crown's relationship with the peoples of Te Urewera. In a national parks system that was designed without any thought for them, the communities of Te Urewera were originally defined, by omission, as anomalies.

It is possible to see why this was the case at the outset. Te Urewera National Park was – and remains – unique among New Zealand's national parks. Had there been a number of parks enclosing Maori land and abutting resident Maori communities, we might assume that the realities would have worked to produce change at national policy level. As it was, the Te Urewera park board and its successors were largely left to consider how to manage issues such as long-established customary uses of park resources themselves.

This led to a range of problems. First, the board shied away from tackling the issue head on. It seems to have taken refuge in the hope that customary uses would diminish over time; but even when it became clear that this was not happening, it did not rock the boat. Te Urewera National Park's earlier administrators had two choices: to try to make the law work in the park and hope that the gap between what the law required and what local people were accustomed to doing would reduce with time, or protest that the law did not cater for the needs of the resident communities of Te Urewera and lobby for change. They went with the first option, for various reasons. First, the chairman of the board was a Crown officer who was bound, professionally, to further the Act's objectives, and a number of the other board members were environmentalists, farmers, and trampers who personally supported those objectives. Secondly, members were conscious of widespread public support for national parks law. This (along with their minority membership of the board and its successors), weakened the position of Maori park board members in particular who might have wished to press for law reform to recognise their peoples' interests in the park. A less obvious reason is their fear that a protest could backfire by drawing unwanted attention to their peoples' uses of the park,

TE UREWERA, *our church, our food basket, our home.*
 ‘You call it a National Park. You say it is for all New Zealanders to enjoy, for the good of the Nation. Well what about the Tuhoe Nation, if we are going to be fair, why don’t you open up your houses and your property to Tuhoe to enjoy. Would you like it if I walked into your kitchen uninvited, made myself a baked bean sandwich and then lay on your couch watching TV? They have a word for that, it’s called Home Invasion.

‘Maybe after I’ve finished eating all your food, I would then go and sprinkle my dead auntie’s ashes in your fridge and then go and mimi in your drinking water.

‘My suggestions sound ridiculous, but this is what we have had to put up with, for the good of true-blue New Zealanders.’

Te Weeti Tihi, Ruatoki, 2004

some of which had won acceptance from the park board, while others continued despite being contrary to park rules. Hence the response of a Maori member of the East Coast Parks and Reserves Board to 1987 submissions on the draft management plan from the ‘young men of Tuhoe’, who submitted that restrictions on hunting in the park should not apply to Tuhoe. The board and the park’s draft plan, said the member, were sympathetic to Tuhoe, but care was needed not to provoke opposition from the wider public:

when you look at the draft plan, the Board has written it in a manner that the public can tolerate, if we push it too much one way there will be a reaction and it is testing how far we can go. It is not so much the Board that you need to influence but the public of New Zealand.¹⁰⁶²

And it was not only Maori park board members who felt the pressure of conflicting values systems and feared that giving publicity to Maori uses of the national park could lead to a backlash. The response by park staff and the East Coast National Parks and Reserves Board to the concerted lobby by pony clubs to be allowed to use Te Urewera National Park provides a clear example.

The evidence further provides some indications of the difficult position in which Maori park board members were placed when working to further national park objectives which did not favour traditional uses of the park’s resources, while

1062. ‘Minutes of the meeting between the East Coast Parks and Reserves Board and the Young Men of Tuhoe’, Murupara County Council Chambers, 17 September 1987 (Coombes, supporting papers to ‘Making “Scenes of Nature and Sport”’ and ‘Preserving a “Great National Playing Area”’ (doc A121(a)), p 264)



Te Weeti Tihi, a Ruatoki claimant. Mr Tihi made a powerful plea for Pakeha recognition of Tuhoē resentment of the sometimes thoughtless and offensive behaviour of visitors to the National Park. To Tuhoē, the Park – despite Crown acquisition of the land for the ‘public good’ – remains their homeland.

knowing that their peoples’ culture and livelihoods depended on the continued use of those resources.

A further outcome of the boards’ failure to confront the issue before them was that customary uses were in general left to park staff to handle at their discretion. There was acceptance that ways should be found to allow people to continue such uses – but this should be done on an informal basis. The enforcement of park rules has not always been consistent. In the earlier years of the park, the park board instructed rangers to take a lenient approach to local peoples’ unauthorised uses of the park, and to encourage their compliance by explaining the park rules. But this meant that people might be subjected to arbitrary decisions – and one result of that was that they ceased, in some cases, to observe the rules. Perceived inconsistencies in park staff use of their discretions to permit hunters to use dogs, and to enforce those rules, were another common cause for complaint:

The Department of Conservation’s regulations are totally unjust to the people of Te Waimana. . . . they decided that if you wanted to take dogs into the bush you had to be a member of a pig hunting or deer hunting club, and a tag had to be worn by the dogs. Only then would you be permitted to take three dogs into Te Urewera. The people of

the valley were not given any exemption. As an example of this, some older men were returning from pig hunting at Te Ono Putu. It became dark so they set up camp off to the side of the track. At that time dogs were prohibited, but the track they were on had been paid for through our lands. Perhaps somebody informed the Department of Conservation, but one of their rangers was sent to investigate. These men were caught because they had left the track to set up camp. They got into trouble and were penalised. On another occasion after this . . . I accompanied a Department of Conservation officer, a relation of ours, to Te Ono Putu to work on the track. When we returned we met two Pakeha and their dog and made ourselves known to them. The dog was not permitted to be in the park, but they were not evicted, and they were not penalised. I thought to myself, yes there is one law for Pakeha, and another law for Maori. From that moment I stopped accompanying our relation to help him with his work.¹⁰⁶³

Even in later years, when rules about customary uses were written into policy, it seems that enforcement of the park's rules has not been consistent, for reasons that include the size of the park, its proximity to Maori-owned land (where activities can be conducted – such as hunting with dogs – that would be unlawful in the park), and the discretion of park staff in dealing with individual situations.

From our earlier account of the general and park policies, it is plain that their approach to traditional uses of Te Urewera National Park has not been uniform. Rather, the responses have been, variously, belated, limited, and changeable – especially in response to external pressures. Different responses have been made to what are in fact related issues of horse use for access to Maori land, horse and dog use in hunting, customary harvests, and the protection of sacred sites and taonga. In other words, park administrators did not see, or felt unable to deal with, the fact that the issues reflected different elements of a coherent cultural system. Instead, they treated the situation as if it presented separate problems that could fairly be dealt with according to the national parks regime's mixed (public and private interest) values and the rules derived from them.

All of this comes back to the central issue before us: why did the Crown's most senior officers involved in national park administration fail to recognise the situation in Te Urewera as raising squarely the issue of the rights and responsibilities of indigenous peoples in connection with protected lands? As we have seen, that issue was increasingly on the agenda of international conferences attended by those officers. And by the mid-late 1980s both the challenges raised at those conferences, of indigenous uses of protected lands, and the increasing recognition of Treaty rights at home, led to official efforts to acknowledge Maori rights – particularly in Te Urewera.

What did not happen however was any concerted confronting of the possibility of recognising and providing for sustainable use – even development – of park resources by iwi, in parks where communities lived and were dependent on park resources. Despite the importance of this recognition in overseas parks, it seems that in New Zealand this was long regarded as too hard. Strangely, however, it

1063. Colin (Pake) Te Pou, brief of evidence, 18 October 2004 (doc H40), p 5

is hard to see why. Hunting to control deer and pig numbers – that is, hunting on a self-balancing basis – was not just provided for in general park policies, but encouraged – as were a number of other activities which certainly left their mark on the landscape. The next step was simply to have made particular provision for resident indigenous communities – in the Act, and then in policies and plans. But it seems that park authorities had a persistent cultural blind spot. The reliance of iwi on hunting for food, and to supplement their income in an area where there were few such sources, was well known. If park policy-makers and administrators shied away from leading this kind of change, it was evidently because they feared being seen to ‘favour’ Maori – particularly in respect of hunting, a highly visible activity (unlike pikopiko gathering) which could arouse vocal opposition.

The national park regime has – variously – ignored, undermined, fragmented and, more recently, paid lip-service to the kaitiaki responsibilities of the peoples of Te Urewera. Some park administrators have made commendable efforts to relieve the pain and stress of the fundamental conflict between national park and Maori cultural values. But because the systemic causes of peoples’ negative experiences of the park have not been tackled, those efforts have been of the band-aid variety. Informal turning of a blind eye to park rules has not legitimated customary norms; it has merely protected particular instances of them from criminal prosecution. Requiring permits for traditional uses does not legitimate them when the criteria for obtaining a permit do not accord with tikanga.

Even today, though there is a professed commitment to Maori in Te Urewera National Park as ‘primary stakeholders’/kaitiaki, and improvements are apparent, the fundamental clash of park and Maori values remains. The Crown maintained that claimants have given insufficient weight to the changes introduced since 1980 (in large part because of the Conservation Act 1987) by which the tangata whenua of Te Urewera are now recognised as kaitiaki of the taonga of the area and are included in park planning processes and the administration of certain initiatives. Certainly, there has been a shift in the wording of policy and planning documents – both at the national level and for Te Urewera National Park – to recognise the relationship of Maori with the park. And there has been more, and better quality, consultation about certain park management issues. But the changes that have accompanied the stated recognition of kaitiakitanga are essentially procedural, not substantive, because the governing legislation – the National Parks Act 1980 – has not been amended to include among its goals the protection and promotion of resident Maori communities’ interests in their ancestral lands. Instead, the Act’s goals remain focused on environmental preservation and conservation, and on the recreational uses of park lands by visitors, so that the now-recognised right of local Maori to be consulted about, and participate in, national park administration is also focused on those goals. The disjunction between national park values and Maori cultural values remains but Maori are now included to a greater degree in the processes by which Te Urewera National Park is run.

The inevitable result is that, for the resident communities, the changes in park management processes and style still do not address their fundamental concern – that the existence of their communities, their culture, and future welfare are not

central to, or even part of, the philosophy of Te Urewera National Park. Thus the changes that have been made to the processes and terminology employed by park management, while a welcome advance on the less inclusive practices of the past, are experienced by the peoples of Te Urewera as merely improvements in a regime that is essentially at odds with their needs.

The disjunction between the statutorily defined objectives of national parks and the needs of the communities of Te Urewera has placed the Department of Conservation in a difficult position as regards complying with section 4 of the Conservation Act by giving effect to the principles of the Treaty of Waitangi in its administration of Te Urewera National Park. But while we acknowledge that, it is our view that, even in its efforts to make its management procedures Treaty-compliant, the department's efforts have been inadequate in two major respects. First, as we discuss in our next section, the only evidence we received of initiatives being taken by Te Urewera National Park management in an effort to meet Maori concerns or to involve Maori in park administration was confined to the Aniwhiwa sector, and such initiatives are not representative of a more general departmental approach to the place and role of tangata whenua. Secondly, we believe that the Treaty content of the most recent policy and planning documents issued by the statutory bodies that now have responsibilities for Te Urewera National Park – along with many other responsibilities – is inadequate. The statements in those documents – particularly the 2005 *General Policy* – about the Crown's Treaty responsibilities to Maori in connection with national parks are, in our view, vague to the point of being unhelpful to departmental staff.

In the simplest terms, the resident communities remain very conscious that their rights in park lands have not been recognised, and the long history of ignoring their rights has fuelled a deep resentment. Te Weeti Tihi's evidence, which we cited above, conveys something of feelings which may not often surface, and which are the product not just of feelings about the park, but of the sense of alienation that decades of Crown policies have produced. Fixing the park, however, would be some tangible move towards healing those deeper grievances. A national park, after all, offers resident communities some real advantages. As the Tribunal put it in its recent Wai 262 report considering the relationship of Maori with the conservation estate generally,

although it is owned by the Treaty partner, every inch of it is tribal territory. Landscapes and landforms evoke the old stories, and they in turn evoke whakapapa. For this reason, individual iwi and hapu relationships with conservation land remain tangible in ways not usually possible in more modified environments.¹⁰⁶⁴

Well conceived and administered, a park could be protective of Maori traditional uses, and assist people in fulfilling their kaitiaki responsibilities

¹⁰⁶⁴. Waitangi Tribunal, *Ko Aotearoa Tenei: A Report into Claims concerning New Zealand Law and Policy Affecting Maori Culture and Identity, Te Taumata Tuatahi* (Wellington: Legislation Direct, 2011), p 127

The underlying problem in the park itself is that the generic National Parks Act, with its preservationist principles and policies, continues to apply in Te Urewera.

16.9 TO WHAT EXTENT HAVE THE PEOPLES OF TE UREWERA BEEN REPRESENTED OR OTHERWISE INVOLVED IN THE GOVERNANCE, MANAGEMENT, AND DAY-TO-DAY ADMINISTRATION OF TE UREWERA NATIONAL PARK?

SUMMARY ANSWER: The peoples of Te Urewera have never had statutorily guaranteed membership on any of the various authorities and boards with governance and management responsibilities for Te Urewera National Park. Before 1990, there were no guaranteed places for any Maori on the central authority responsible for national parks policy. But the main concern of the peoples of Te Urewera has been their inadequate representation on the bodies with particular responsibility for Te Urewera National Park. While they have never had statutorily guaranteed membership of these bodies, they have almost always been represented on them as the result of ministerial appointment: Tuhoe have always had either one or two representatives, while Ngati Kahungunu also had a representative from 1974 to 1990, and again from 1999 until about 2002. The Crown has thus never formally recognised the right of iwi representatives to be on the Urewera National Park Board and its successors – despite acknowledging their continuing connections to the park lands. In any case, the Maori representatives have always been in a minority, which has meant that their interests could be ignored or sidelined when they did not align with the interests preferred by the National Parks Act.

Opportunities for involvement of the peoples of Te Urewera in park policies and plans have increased since 1976, when the first management plan was issued. But there were still few Maori submissions on the 2003 draft plan, and there were complaints that the time allowed by DOC for submissions was too short. There is a strong feeling among claimants that DOC is not interested in a negotiated outcome with iwi, who are disadvantaged in a process where a draft plan, prepared by the department, is the subject of numerous written submissions from groups representing environmental, recreational, and other interests, which are based mostly outside Te Urewera. Although DOC sets out its Treaty responsibilities in its policy and planning documents, its interpretation of them focuses very largely on the process – not the substance – of its decision-making. That is consistent with the fact that the National Parks Act's purposes and principles do not recognise the importance of protecting the relationship of Maori communities with their ancestral lands.

Nor have Maori ever been greatly encouraged to be involved in the day-to-day running of the park. Until the 1980s, a number of honorary rangers were appointed – a minority of whom were local Maori; thereafter the park staff became increasingly professionalised. An early experiment in local representatives issuing hunting permits was shortlived because of the fears of park staff that Maori might be privileged. There was a complete absence of involvement with local communities to address the very real problem of hunter trespass on Maori lands. The

solution eventually developed in the 1970s by the Tuhoe-Waikaremoana Maori Trust Board, of appointing their own wardens, was not supported by park administrators; a recent step has been to ask park rangers to do more. In terms of general involvement in park management, the 'Aniwaniwa model' of decision-making with two local iwi committees, developed since the mid-1990s, has been much more inclusive. However, this model has not been extended throughout the park. It continues to depend on the goodwill of one area manager, with funding managed at a distance.

16.9.1 Introduction

The peoples of Te Urewera have been accorded a very limited role in the national park's governance and management. This is a source of frustration and insult to claimants, given that their communities border or are even virtually enclosed within the national park that has been established on their ancestral lands. We consider the issues raised by the claimants by examining the following three questions:

- ▶ To what extent have Te Urewera peoples been included in the statutory bodies with governance and management roles for the park?
- ▶ What opportunities have there been for their input to park policies and plans?
- ▶ What opportunities have there been for local Maori involvement in the day-to-day running of the park?

16.9.2 To what extent have Te Urewera peoples been included in the statutory bodies with governance and management roles for the park?

The claimants and Crown agree that there has never been statutorily guaranteed membership for the peoples of Te Urewera on any of the various authorities and boards that have had governance and management responsibilities for Te Urewera National Park. They disagree, however, on the significance to be attached to that fact given that there have almost always been representatives of the peoples of Te Urewera on the original park board and its successors.

The claimants' criticisms of the national parks regime placed comparatively little emphasis on the composition and role of the three central authorities that, since 1952, have had policy-focused functions in relation to all national parks: the National Parks Authority (1952–80), the National Parks and Reserves Authority (1981–90), and the New Zealand Conservation Authority (since 1990). It is noteworthy, however, that the National Parks Authority, with its statutorily defined membership dominated by senior public servants and environmental, recreational, and scientific interest group members, seems never to have had a Maori member in its nearly 30 years of existence to 1980. Only since 1990, with the creation of the 13-person New Zealand Conservation Authority, have there been any guaranteed places for Maori on the central authority responsible for national parks policy. (The Minister of Maori Affairs nominates two members, and Te Runanga

TUHOE have always felt that they had a marginalised influence on decision-making'

Aubrey Temara¹

1. Brad Coombes, 'Preserving a "Great National Playing Area" – Conservation Conflicts and Contradictions, 1954–2003' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), p 261

o Ngai Tahu nominates one member, to the authority.¹⁰⁶⁵) Although the peoples of Te Urewera have not been represented on the Conservation Authority or its predecessors, their greater concern by far is that they have not had sufficient representation on the statutory bodies with particular responsibilities for Te Urewera National Park.

Since Te Urewera National Park was established in 1954, there have been six bodies at park or regional level with responsibilities for its management: the South Auckland commissioner of Crown lands (1954–61), Te Urewera National Park Board (1961–80), the East Coast National Parks and Reserves Board (1981–90), the East Coast Conservation Board (1991–97), the East Coast Hawke's Bay Conservation Board (1998–2009), and the East Coast Bay of Plenty Conservation Board (2009–present). Although the peoples of Te Urewera have never had statutorily guaranteed membership of any of the bodies that have existed since late 1961, they have almost always been represented on them as the result of ministerial appointment. The original nine-member park board had either one or two Tuhoe representatives at all times. Ngati Kahungunu also had a representative on the original park board from 1974 to 1990, and again from 1999 until about 2002. We have noted earlier that the seven year delay in appointing a park board was due to the Crown's focus on purchasing adjacent Maori land to add to the park – a focus that did not fade for many years. When the Minister of Lands decided to appoint the first board for the park, he announced that it 'should . . . contain representatives drawn from the Rotorua, Whakatane and Wairoa areas and of the Maori people.'¹⁰⁶⁶ The Minister's appointment of Tuhoe representatives to the original board may have been inspired not only by the iwi's historical associations with the park lands but also its ownership of adjacent land that the Crown wanted

1065. Conservation Law Reform Act 1990, s 6D. The Ngai Tahu position on the authority was created in 1998 by the Ngai Tahu Claims Settlement Act 1998.

1066. 'Establishment of Park Boards for Westland and Urewera National Parks', press release, no date (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p168)

to include in the park. Certainly, as late as May 1977, when the question arose of whether to reappoint one or both of the Tuhoe park board members, the chair of the board advised the chair of the National Parks Authority in terms that emphasised the influence each member might have in smoothing the way for future acquisitions of Tuhoe land.¹⁰⁶⁷

The Tuhoe claimants contend that their ancestral associations with the lands of the park, and their ongoing responsibilities as *kaitiaki*, should have been recognised by a statutory guarantee of their membership of the park board and its successors.¹⁰⁶⁸ This idea was rejected twice, in 1973 and in 1980. On the first occasion, the Minister of Maori Affairs sought support from the National Parks Authority and the Urewera National Park Board to a proposal to amend the National Parks Act to guarantee Maori membership of the park board. Neither body supported the idea, on the basis that the system of ministerial appointments worked well.¹⁰⁶⁹ In 1980, the select committee considering the National Parks Bill was advised by Lands and Survey staff that Maori membership of Te Urewera National Park Board was not 'as of right' for, unlike Tongariro and Egmont National Parks, there was 'no special historical significance' in the establishment of the park.¹⁰⁷⁰ Therefore, it is as a matter of practice – not of right – that representatives of the peoples of Te Urewera have continued to be appointed to the boards that have succeeded the original park board. The Crown contends that the quantity and quality of representation of the peoples of Te Urewera on the original park board was sufficient without a statutory guarantee of membership and that the Maori members were influential in bringing their peoples' interests to the board's attention.

In our view, the Maori board members (who were mostly two out of nine board members) faced extremely difficult challenges in representing their community's interests – far more than were faced by other board members appointed for their special interests, namely, those representing the Royal Forest and Bird Protection Society or the Federated Mountain Clubs. Those interest groups had been influential in developing the Act and, as a result, their interests were formally recognised not only in the Act's purposes and principles, but also in the membership of the National Parks Authority and even, in certain circumstances, in the membership of park boards.¹⁰⁷¹ The situation was totally different for the peoples of Te Urewera.

1067. RM Velvin to chairman, National Parks Authority, 5 May 1977 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 877)

1068. Counsel for Wai 36 Tuhoe, closing submissions, pt B (doc N8(a)), p190; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 111

1069. Edwards, 'Te Urewera National Park' (doc L12), p74; TR Nikora to chairman, Urewera National Park Board, 18 June 1973 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p 282); National Parks Authority, minutes, 26 September 1973 (Campbell, 'Te Urewera National Park' (doc A60), p 157)

1070. 'Membership of Urewera National Park Board', briefing paper attached to Director-General of Lands to Minister of Lands, 30 June 1980 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 897)

1071. There was provision for the Federated Mountain Clubs and the New Zealand Ski Association jointly to nominate a member for any park board that the National Parks Authority considered should have mountain climbers and skiers represented on it. See National Parks Act 1952, s18(3).

W*E were outnumbered [on the park board] by English gentleman farmers . . .
We were there, but not equal!*

Tama Nikora to Brad Coombes¹

1. Brad Coombes, 'Preserving a "Great National Playing Area" – Conservation Conflicts and Contradictions, 1954–2003' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2003) (doc A133), p 168

They had not been consulted about the design of the Act and there was no statutory recognition of their interests. In fact, as we have seen, the interests preferred by the Act were opposed to extractive uses of park resources and to the presence of horses and dogs in the park, yet these are essential elements of the subsistence lifestyle of Te Urewera communities. Unlike other board members, who reported back to groups with interests aligned with the park's core preservationist values and its recreational uses, the Tuhoe and, later, Ngati Kahungunu appointees bore the brunt of mediating with their communities over the activities they carried out on park lands according to their own tikanga. The evidence shows that Maori board members found this extremely challenging and often stressful.

Since 1980, representatives of the peoples of Te Urewera have continued to be appointed to the various boards that have exercised functions in relation to Te Urewera National Park. The Crown contends that the level of representation has been adequate, but compared to the pre-1980 period, the later boards' roles have changed significantly and this has reduced their collective focus on, and knowledge of, the park. The boards' territorial jurisdiction has been expanded beyond the park to other public lands so that, nowadays, the park is just one part of a far larger area of conservation lands for which the regional conservation board has responsibility. As well, the boards' functions have changed, from the original park board's hands-on management role to the current conservation board's planning and advisory role. Overall, compared with the original Urewera National Park Board, today's board has a role that is substantially diluted, both territorially and functionally. One result is that it is far more dependent on conservation department staff for information about the park and the peoples of Te Urewera. Three representatives of the peoples of Te Urewera who have served on post-1980 boards gave evidence of those boards' remoteness from the national park and the local communities. Aubrey Temara considers that an effect of the current regime is that the park is managed in isolation from its reality. In his view, a return to localised administration is needed:

Short of outright return of land in the Park to Tuhoe ownership . . . it has always been a long-held view that at least the former Te Urewera National Park Board [ought

to] be re-instated so that decisions [are] for the most part localized or . . . [have] the feel of localization.¹⁰⁷²

Korotau Basil Tamiana echoed the need for local management of the national park, for the reason that the park ‘is no longer a priority’ in a conservancy that stretches over a large area outside Te Urewera. In his view too, the conservation focus of the department meant that the park management plan ‘had been high-jacked by conservation issues rather than maintaining a management focus.’¹⁰⁷³ Reay Paku also criticised the remoteness from the park of a conservancy board ‘which is not really conversant with the issues surrounding the lake, its lands, its histories, and its peoples.’¹⁰⁷⁴

In our view, the absence of a statutory right of membership for the peoples of Te Urewera on any of the boards that have had, and still have, responsibilities for Te Urewera National Park reflects badly on the Crown’s awareness of the history of the park lands and of the peoples’ continuing connections to them. It is an insult to the peoples of Te Urewera not to be recognised, formally, as having the right to be represented on those boards. It may also have put the Maori appointees at a disadvantage, for other board members might have responded more favourably to the Maori members’ concerns had their appointment been guaranteed by statute.

But those matters do not get to the heart of the issues raised by the claimants. As we see it, even had their membership of the various boards been provided for by statute, the representatives of the peoples of Te Urewera would still have been in a minority at the board table. Therefore their interests could still be ignored or only partly recognised whenever they did not align with the interests preferred by the National Parks Act. And this takes us to the central issue. There can be no doubt that the National Parks Act is not geared to embrace the use of national parks by resident Maori communities in accordance with their tikanga. In fact, the Act’s purposes and principles are in many respects inimical to the purposes for which, and the principles by which, the peoples of Te Urewera have traditionally used, and continue to use, the park’s resources. In these circumstances, we believe that the relationship between the park’s administrators and the peoples of Te Urewera would not have been significantly affected had the peoples’ representation on the boards been guaranteed by statute.

16.9.3 What opportunities have there been for input to park policies and plans?

The same reasoning applies to the claimants’ complaint that they have had very few other opportunities to influence policy for and management of Te Urewera National Park while other groups, particularly environmental and recreational groups, have been heavily involved in the development of policy and plans and have had their views favoured because of the weight of their apparent numbers. Yet, the Crown’s response is that there is no evidence that other groups’ views have

1072. Temara, brief of evidence (doc K15), p 8

1073. Korotau Basil Tamiana, brief of evidence, 21 June 2004 (doc E11), p 5

1074. Reay Paku, brief of evidence, 22 November 2004 (doc I35), para 4.7

General Policy for National Parks

2. PUBLIC PARTICIPATION AND COMMUNICATION

Policy

- 2.1 Public participation will be encouraged in major policy issues, extending where appropriate beyond the statutory requirements, and relevant information will be made available to facilitate public input into policy decisions.
- 2.2 Interested individuals and organisations will where appropriate be approached directly for their views on specific proposals. In particular consultative procedures with local Maori groups which have historical or spiritual ties to land in national parks will be fostered, and the views of such groups will be fully considered in formulating management policies.¹

1. National Parks and Reserves Authority, *General Policy for National Parks* (Wellington: Department of Lands and Survey, 1983), p 8

been preferred at the expense of local communities and that, since 1980, there have been increased opportunities for the peoples of Te Urewera to have input to park policy and planning. It also says that the 2003 park management plan accords primacy to ‘the relationship with the key “stakeholder” group in the Park, tangata whenua (ahead of State agencies and groups/individuals).’¹⁰⁷⁵

It is true that the opportunities for Maori input to the development of the park’s management plan have increased substantially since the first plan was issued in 1976. At that time, there was no effort made by the board or Lands and Survey staff to secure input from Maori groups although, at the urging of board member John Rangihau, Tamaroa Nikora was added to the planning team to give advice on issues relating to Maori.¹⁰⁷⁶ In that position, as we have seen, Nikora challenged the park board’s awareness of the history of Te Urewera.

By the time the 1976 park plan was reviewed in the 1980s, the National Parks Act 1980 prescribed the process to be followed. It included advertising in newspapers for written submissions at two stages in the process – at the outset, and once a draft plan existed – and providing an oral hearing, if requested, to those who made written submissions on the draft plan. By this time too, the National Parks and Reserves Authority’s 1983 *General Policy* included a new statement that emphasised the importance in park management planning of consulting Maori groups with historical or spiritual ties to national park lands (see the sidebar, policy 2.2).

That policy statement had been added at the final stages of the *General Policy*’s development, after 90 written submissions had been received and eight groups

1075. Crown counsel, closing submissions (doc N20), topic 33, p10

1076. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 270–277

had spoken to their submissions. None of the submitters represented Maori interests and the Director-General of Lands, when reviewing the draft policy, consulted three Maori leaders about its content. In response to their concerns, the Director-General recommended three changes to the draft policy, which the Minister asked the authority to agree to, and it did.¹⁰⁷⁷

While the process by which the Te Urewera National Park management plan 1989 was developed complied with the statutory requirements, we are sure that it did not satisfy the *General Policy's* directive to foster consultative procedures with local Maori groups. No targeted efforts were made to encourage Maori groups to have input to the park plan. Out of 50 written submissions made at the first stage of the process, only two were from Maori groups, and of 96 written submissions on the draft plan, again just two were from Maori groups.¹⁰⁷⁸ Both of the latter groups were heard on marae, after they insisted that should happen, and changes were made to the draft plan as a result.¹⁰⁷⁹ By that time, the Conservation Act 1987, with its Treaty clause, had been enacted, and the first policy in the 1989 park management plan reads: 'The Department of Conservation in the management of the park will have full regard to the Treaty of Waitangi and the traditional rights of the tangata whenua.'

The development of the 2003 Te Urewera National Park management plan included a substantial programme of tangata whenua consultation, which in turn resulted in a larger number of Maori submissions.¹⁰⁸⁰ Maori were identified as the principal 'stakeholder' in Te Urewera and the department actively sought input from a broad range of tangata whenua groups. The newly appointed Kaipapa Atawhai Manager played a vital role in leading this process, identifying 27 Maori groups who were sent a briefing paper about the plan development process and, later, received a copy of the draft plan free of charge. Nine hui were held before the draft plan was written. Of the 121 written submissions received on the draft plan, seven were from Maori.¹⁰⁸¹ The department received a number of complaints about the short time span available for submissions, one noting the 'frustration and anger within Tuhoe people for the continued lack of consultation by government agencies and in this case [DOC].'¹⁰⁸²

Aubrey Temara told us that the process is poor because it is not based on true engagement in which an outcome can be negotiated between the department and iwi which reflects 'the hopes and aspirations of both parties'. He believes that the many submissions from 'tauiwi groups' are given more consideration than the 'collective tangata whenua representations and the place of iwi in accordance with the treaty':

1077. Edwards, 'Te Urewera National Park' (doc L12), pp 55–56

1078. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 369, 375, 380–381

1079. *Ibid*, p 382

1080. *Ibid*, p 262

1081. *Ibid*, pp 228, 400–401, 415

1082. TP Heurea to Minister of Conservation, 4 September 201 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 417)

The process by which the plan was developed leaves a lot to be desired. The process is still typified by the one way method of producing a draft and inviting public submissions. The process is dominated by the persuasive sway of public opinion based on multiple public submissions leveraged against the few tangata whenua submissions.¹⁰⁸³

The 2003 Te Urewera National Park plan was issued before the New Zealand Conservation Authority issued the latest *General Policy for National Parks* in 2005. Until 2005, the 1983 *General Policy* had continued in force, having been adopted by the Conservation Authority soon after its creation in 1990. The new general policy is notable for including, early in the document, policies on the ‘Treaty of Waitangi Responsibilities’ of park administrators. The introduction to the policies explains that ‘Effective partnerships with tangata whenua can enhance the preservation of natural and historical and cultural heritage in national parks.’ It continues by giving an informed account of the responsibilities of kaitiaki but provides no explanation of the meaning of the Treaty of Waitangi. Instead, five principles that were recognised by the Government in 1989 are listed, without any information about them being provided (the principles of government, self-management, equality, reasonable cooperation, and redress), followed by this oblique statement: ‘The way these principles are applied will depend on the particular circumstances of each case, including the statutory conservation framework and the significance to tangata whenua of the land, resource or taonga in question.’¹⁰⁸⁴

The 10 policies that are then stated make plain that the Treaty responsibilities of those involved in the administration of national parks centre on the need to develop and maintain positive relationships with tangata whenua. Some policies give guidance on how this can be done, including by forming partnerships, ‘to recognise mana and to support national parks.’ Three policies direct that tangata whenua be consulted in certain circumstances, namely, in the development of planning documents, and about proposals affecting, and public information on, ‘places or resources within national parks of spiritual or historical and cultural significance.’ One policy identifies the circumstances in which customary use of traditional materials may be allowed. The very few references to tangata whenua interests elsewhere in the *General Policy* show that the 10 policies on Treaty of Waitangi responsibilities are intended to be applied across all aspects of national park administration.

The *General Policy*’s description of DOC’s Treaty responsibilities has a procedural focus: the primary message is that, in the course of the department’s administration of a national park, it should adopt a process of involving local Maori through consultation and other means by which their cooperation in the park’s administration may be obtained. No attempt is made to describe a range of matters of unique importance to local Maori, let alone to require their advice or more active involvement to be obtained. Only two such matters are mentioned – dealings with places or resources of significance, and permitting the customary use

1083. Temara, brief of evidence (doc K15), p 9

1084. New Zealand Conservation Authority, *General Policy for National Parks*, p 15

of traditional materials – and the most that is required of tangata whenua in connection with these matters is that they ‘support’ any instance of customary use that might be allowed. This limited interpretation of the department’s Treaty responsibilities would seem to be consistent with the fact that the National Parks Act’s purposes and principles expressly promote a range of interests other than the interests of Maori in their ancestral lands. The specific statutory context, in other words, allows a limited interpretation to be given to the department’s ‘Treaty responsibilities’ in the administration of national parks.

Some claimants have criticised the consultation engaged in by DOC for the purposes of developing or reviewing policy and plans affecting Te Urewera National Park, on the basis that the department has not been open to discussion about the park’s ownership or other models for its governance and management.¹⁰⁸⁵ In our view, the department’s stance is unsurprising in all the circumstances. It has been aware of the Tribunal’s inquiry into the manner of the Crown’s acquisition of the lands that make up the national park, and that the Crown’s concessions of Treaty breach have been limited. It is administering a national park which, the governing statute says, is to exist ‘in perpetuity’. Both the National Parks Act and Conservation Act forbid the department from delegating its powers and duties under those Acts to anyone outside the department. In light of those matters, it is understandable that department staff would regard it as unsafe, or futile, or as raising false hopes, to discuss with the peoples of Te Urewera the possibility of their having a substantial role in the governance and management of the national park.

Claimants have also criticised the department’s consultation for not taking account of the concerns raised by Te Urewera communities about the environmental state of the park and the negative effects upon them of park rules. It is our strong impression that the peoples of Te Urewera have raised the same sorts of concerns about the park’s management for many years now, whenever the opportunity has arisen. As we have seen, those concerns have been, and remain, focused on the constraints that the park imposes on their traditional lifestyle and kaitiakitanga, as well as on their opportunities to use their remaining lands to obtain economic benefit. The complaints made in 1998 to the Joint Ministerial inquiry into Lake Waikaremoana, for example (see below), were repeated to us, six or seven years later, almost verbatim, together with the criticism that the department had done very little in the meantime to implement the inquiry’s recommendations. The department, however, considers that its responses to the recommendations have been supported by local Maori leaders and that its consultation on the 2003 park management plan – and other initiatives involving local Maori – have been successful. There are many factors at work in this situation, including the different views held in local communities about how to bring about change that will be for the good of the park, and how fair the funding and other decisions made by

1085. Temara, brief of evidence (doc K15), p 9

Ministers and senior departmental officers are that limit the work that can be done to repair environmental damage in Te Urewera National Park.

But the primary factor, we consider, is – again – that the National Parks Act is based in an ideology that is in many ways at odds with local communities' need to continue their traditional uses of the park's resources. This means that the department and the peoples of Te Urewera will be talking past each other much of the time. Not even the best consultative processes can solve that problem. While department staff's understanding of the local peoples' situation may persuade them to modify, or make an exception to, a park rule that promotes national park values, their responsibilities to administer the law will prevent them from abandoning the rule and replacing it with one that promotes different values. All the factors identified here help explain why the department's interpretation of its Treaty responsibilities to the peoples of Te Urewera is focused very largely on the process of decision-making, rather than on its outcome. That is very clear from the 2005 *General Policy for National Parks* and from the evidence of the department's general approach to management in Te Urewera National Park. For the department, its Treaty obligations are met if it consults with local people in the process by which it reaches its decisions. For some local people, however, the department has a reputation for making decisions that do not address the concerns raised with it in consultation, and that makes the 'consultation' a waste of their time.

16.9.4 What opportunities have there been for Maori involvement in the day-to-day running of the park?

The unique feature of Te Urewera National Park – the presence beside and within it of Maori communities living on their remaining ancestral lands – is a very good reason for local people to be involved in its day-to-day administration. Their deep knowledge of the park lands and resources, the fact that issues arise because of the number of park visitors tramping and hunting so close to Maori land, and the relative lack of employment opportunities to sustain local communities are further important reasons for their involvement. As we have seen, however, the park has been a limited source of paid employment for local people. This has meant that, for the most part, the support of local people for the park's objectives, and the application of their knowledge and experience for its benefit, have had to be won by unpaid means.

The appointment of individual Maori as unpaid honorary rangers, the involvement of some Te Urewera leaders in issuing permits to hunt in the national park, and Tuhoē's own initiative to appoint wardens to prevent park visitors trespassing on their lands, were all efforts to this end. But they provided only occasional experience of aspects of the park's operations; they did not secure neighbouring Maori communities' participation in the park's administration in any systematic way. Regrettably, the evidence shows that, with one notable exception (the management model introduced in the Aniwaniwa sector of the park from the mid-1990s), the efforts made by park administrators to involve local Maori in its day-to-day running have been limited.

16.9.4.1 Honorary rangers

Before 1969, honorary rangers were not mentioned in the National Parks Act. But from the very beginnings of Te Urewera National Park, when there were few employed park rangers, it was the practice – of the commissioner of Crown lands and, from 1962, the park board – to appoint honorary rangers.¹⁰⁸⁶ Although they had no formal status or powers until 1969, honorary rangers could, for example (and it seems that these were their main tasks in Te Urewera) inform park users about the park's rules and report any observations of misconduct to the park's administrators. In 1955, the commissioner was advised by the Director-General of Lands, endorsing a suggestion from the National Parks Authority, that it would be 'politic to appoint more people of Maori blood as Honorary Park Rangers' in Te Urewera National Park.¹⁰⁸⁷ By 1962, when the first park board was appointed, 32 honorary rangers had been appointed, seven of whom (some 19 per cent) were Maori who lived in or around the park.¹⁰⁸⁸ At that time, the National Parks Authority praised their contribution to the park's operations, saying that 'their keenness and alertness have assisted in protecting and improving the Park, particularly in the absence of any permanent ranger staff'.¹⁰⁸⁹ Appointments increased after the establishment of the park board.¹⁰⁹⁰ The *General Policy* of the National Parks Authority, issued in 1964, stated that it would approve recommendations for appointment of honorary rangers 'only where those recommended take an active interest in the park' and that appointees would be asked to make annual reports to their boards.¹⁰⁹¹

In 1969, an amendment to the National Parks Act made permanent rangers employees of the Department of Lands and Survey and provided that a park board could appoint honorary rangers with the same powers as permanent rangers.¹⁰⁹² The only powers of permanent rangers that were spelled out in the Act were their 'policing' powers, which needed to be authorised by statute because of their intrusive nature. Section 52 of the Act provided that permanent rangers could 'interfere' summarily (without a warrant) 'to prevent any actual or attempted breach' of the Act or any regulation or bylaw. From 1969, if a park board chose to do so, it could confer those powers on any honorary rangers it appointed.

1086. Edwards, 'Te Urewera National Park' (doc L12), p77

1087. Director-General of Lands to commissioner of Crown lands, 28 April 1955 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p1109)

1088. Edwards, 'Te Urewera National Park' (doc L12), pp77–78. By November 1962, the National Parks Authority appointed several more honorary rangers, among them Paitawa Miki, John Temara, and R J Biddle: National Parks Authority, minutes, 29 November 1962 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p259)

1089. National Parks Authority, 'Visit to the Urewera National Park by the National Parks Authority 11 and 12 March 1961' (Walzl, supporting papers to 'Waikaremoana' (doc A73(a)), p612)

1090. National Parks Authority, minutes, 29 November 1962 (Campbell, supporting papers to 'Te Urewera National Park' (doc A60(b)), p259)

1091. National Parks Authority, *General Policy for National Parks* (1964), pp6–7 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p1252)

1092. National Parks Act 1952, ss 27A, 27B

By 1973, some 36 per cent of all honorary rangers in Te Urewera were Maori. While there were 87 people listed as honorary rangers at that time, eight of these were park board members, 11 were officers of the New Zealand Forest Service, eight were officers of the Wildlife Division of Internal Affairs, and seven were staff appointed by the park board or the Department of Lands and Survey.¹⁰⁹³ Of the ‘true’ complement of honorary rangers (53), Edwards concludes that ‘19 people [36 per cent] are identifiable as Maori from Te Urewera.’¹⁰⁹⁴

Coombes has noted that the appointment of tangata whenua to the positions of ranger or honorary ranger ‘provided the opportunity to foster partnership relations’. In his view, however, this was an opportunity that was largely mishandled, because the park board’s idea was that Tuhoë honorary rangers would ‘police their people.’¹⁰⁹⁵ While Coombes concedes that it was a reasonable expectation of the board that honorary rangers should enforce park rules, he argues that their potential to add knowledge and liaise between the park and the local people was underestimated.¹⁰⁹⁶ Edwards, on the other hand, suggests that Maori honorary rangers were, like Maori board members, ‘cultural ambassadors, raising some matters of concern to their communities with the park board, and in turn raising matters of concern to the park board with their communities.’¹⁰⁹⁷

We do not have sufficient evidence to resolve the point but note that by the early 1980s the role of the honorary ranger in improving the relationship between park users and rangers, in addition to ‘policing’, was being encouraged.¹⁰⁹⁸ Some sources suggest that this change was aimed primarily at promoting park values or ‘winning’ Maori over. The chief ranger, for example, proposed that honorary rangers act as ‘public relations officers whose function is to promote Park philosophies and ideals (ie win friends and influence people).’¹⁰⁹⁹ Other sources suggest a more mutual, two-way exchange. In 1984, for example, senior ranger A J Ure described the work done by kaumatua and honorary ranger Sam Rurehe in the following way:

Mr Rurehe is active in interpreting Maori history to visiting school groups and adult organisations. He has acted as tour leader, guide and interpreter with Maori

1093. Edwards, ‘Te Urewera National Park’ (doc L12), p 79

1094. *Ibid*, pp 79–80. Coombes, by contrast, said that of the 81 honorary rangers, there were only 12 with ‘obviously Maori first or surnames.’ As Coombes acknowledged that this methodology is fraught, we have preferred Edwards’ analysis. See Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 174.

1095. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 172. Emphasis author’s own.

1096. *Ibid*, p 173

1097. Edwards, ‘Te Urewera National Park’ (doc L12), p 107

1098. *Ibid*, p 80; draft report to National Parks and Reserves Authority, ‘Review of Policy on Administration of the Honorary Ranger System and the Training of Honorary Rangers’, [1983], p 3 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1132)

1099. Chief ranger to commissioner of Crown lands, 22 July 1983 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p 1128)

visitors to Park Headquarters doing good work for the Park and its historical values. His advice and knowledge is sometimes also sought by ourselves from time to time . . . [such as in relation to] use of the Park and enclaves by the Tuhoe.¹¹⁰⁰

An affidavit supplied to the 1998 inquiry into DOC's management of Lake Waikaremoana similarly stated that the honorary ranger scheme, and its employment of local Maori, had helped to improve the historically unhappy relationship between the national park board and local people.¹¹⁰¹ However, when the management of the park became more professionalised in the 1980s, with a larger number of permanent staff, the practice of making honorary appointments declined.¹¹⁰² The National Parks Act 1980 does make provision for the Minister to appoint honorary rangers but it does not confer any specific powers on them.¹¹⁰³ One consequence is that honorary rangers no longer have statutory authority to exercise 'policing' powers. While that fact may not deter DOC from appointing honorary rangers, the very fact that they are not officers of the department who are trained and paid to do DOC's work on its terms could well act as a deterrent.

16.9.4.2 *Hunting permits*

Another initiative early in the park board's life – although of very limited effect – involved local people issuing permits to hunt in the national park. Such permits were required once the park was created; and as soon as the park board was established it took up the issue with local people. At the 1962 hui with board members, local hunters made it clear that having to travel a long distance to an issuing station deterred them from obtaining permits. An honorary ranger (Pakitu Wharekiri) proposed that he become an issuing agent at Ruatahuna but this was rejected by the Conservator of Forests, who was responsible for noxious animal control.¹¹⁰⁴ Instead, on the recommendation of the park board, board member TC (Charlie) Nikora was selected as a 'suitable person' for the position at Ruatoki.¹¹⁰⁵ In 1965, the senior ranger at Aniwanuiwa criticised Nikora's successor for being selective in issuing permits only to local Maori. The board agreed, and decided that the soon-to-be appointed ranger at Ruatoki would take over issuing responsibilities.¹¹⁰⁶

Three years later, in 1968, the Eastern Tuhoe Tribal executive requested, and was granted, the right for one of its representatives to issue hunting permits at the

1100. Senior ranger to chief ranger, 17 May 1984 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1137)

1101. Mr Justice Gallen, affidavit, 9 April 1997, p 2 ('Joint Ministerial Inquiry – Lake Waikaremoana', 27 August 1998 (doc H13), app 3)

1102. Edwards, 'Te Urewera National Park' (doc L12), p 80; draft report to NATIONAL PARKS AND RESERVES AUTHORITY, 'Review of Policy on Administration of the Honorary Ranger System', p 2 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), p 1131)

1103. National Parks Act 1980, s 40(2)

1104. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 478–479

1105. Conservator of Forests to secretary, Urewera National Park Board, 19 June 1962 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 479)

1106. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 479

Waimana entry to the park. The ranger at the northern end of the park endorsed the executive's request in a submission to the board that emphasised customary rights and the problems of accessibility of permits for local people.¹¹⁰⁷ In 1975, however, the park board rejected the executive's request that another of its representatives be allowed to issue permits. The chief ranger based at Aniwanuiwa opposed another permit book becoming operational: 'We have too many now and I fear the permit system is far too weak as a result.'¹¹⁰⁸ Instead, he recommended – contradicting his own statement that too many permit books were in operation – that a Pakeha honorary ranger based at Whakatane be granted a permit book at Ruatoki, and this was later accepted. Coombes considers the real reason behind the situation was that Pakeha hunters claimed they were being denied shooting permits by the Eastern Tuhoe agent.¹¹⁰⁹ At the time there were about eight stations issuing hunting permits for the park. The fact that just one was in local Maori control (Ruatoki until 1965 and Waimana from 1968) suggests that Tuhoe were not trusted by the park board as administrators.¹¹¹⁰ We received no evidence of similar experiments regarding hunting permits being undertaken elsewhere in the inquiry district in this period, and are unaware how long the Waimana arrangement lasted beyond 1975.

16.9.4.3 Tuhoe Wardens

We have discussed earlier the serious problems caused by park visitors trespassing, intentionally or otherwise, on Maori land, and the unwillingness of park authorities for many years to take any action beyond erecting park boundary signposts and providing boundary information notices in park huts. The extent and continuing nature of the problems caused to Maori owners by 'the Crown's manuhiri', coupled with the park authorities' position that issues concerning non-park land were not their responsibility, did not help relationships between park staff and local people.¹¹¹¹ Yet, as local people observed at the time, the close links between the matters of hunting permits for the park and trespass on Maori land suggest that had local Maori been allowed greater control over the issuing of hunting permits, the incidence of trespass on their lands could well have been reduced. As things stood, however, Tuhoe were left to come up with their own solution to a problem caused by the 'omnipresence' of the park.

From the early 1970s, Maori landowners increasingly attempted to manage the situation, appointing their own wardens to patrol their land and closing several access routes through it. This caused public resentment and met with disapproval by park staff. One ranger reported that Tuhoe wardens were carrying firearms as well as taking dogs into the park; the secretary of the park board reported

1107. Ibid, p 480

1108. DF Bell, chief ranger, to secretary, Urewera National Park Board, 7 March 1975 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 481 n)

1109. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 481 n

1110. Ibid, p 479

1111. Tamiana, brief of evidence (doc K16), p 3

complaints also from hunters who had been ‘physically stopped’.¹¹¹² In December 1973, Tama Nikora explained to park rangers the purpose of the wardens – they were appointed by the Tuhoe-Waikaremoana Maori Trust Board to police Maori lands under the Trespass Act 1968. The trust board was contemplating a permit system of its own and sought cooperation between the park board and the Tuhoe rangers. Nikora’s idea of a joint meeting received the support of the board and the chief ranger. The meeting was held in June 1974 and was reported to be a success. Tolerance was asked for on both sides, but nothing substantial was done to assist in the protection of Maori lands.¹¹¹³ It is only in recent years that steps have been taken in that direction and park staff are now directed to ‘keep an eye’ on boundaries.¹¹¹⁴

The evidence establishes that the early experiences of the peoples of Te Urewera with park management and staff were not characterised by high levels of trust, nor by a strong sense of common purpose. The claimants argued that the situation has not changed markedly with the advent of DOC in 1987 and the merger of the national park regime with the broader conservation land management system that was introduced in 1990. They say there is a shortfall between the stated intentions of the Conservation Act, the policy statements of the department, and actual practice. Coombes supported this view, especially of early DOC operations. He cited the Northern Te Urewera Ecological Restoration Project, which was established in 1996 to restore the habitat of kokako in four core areas, primarily near the Waimana Valley, as a case in point: lip-service was paid to the idea of creating a close relationship with tangata whenua and respect for matauranga but without practical steps being taken to realise those goals.¹¹¹⁵

16.9.4.4 The ‘Aniwaniwa model’

In 1994, the Aniwaniwa Area Office was prompted by one of its Maori staff members (Neuton Lambert) with the support of Glenn Mitchell (the area manager) to establish an informal collaborative process designed to overcome the ‘them and us’ attitude they perceived as existing between the department and local people. The ‘working party’ initiative established what DOC referred to as a ‘continuous programme of consultation with Tangata Whenua’ through representatives of the Waikaremoana Maori Committee and the Tuhoe Manawaru Tribal Executive who were involved in the day-to-day work and planning of the department.¹¹¹⁶ According to Glenn Mitchell, this process is intended to provide an opportunity

1112. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p126; secretary, Urewera National Park Board, to chief surveyor, 19 October 1973 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p126)

1113. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp127–128

1114. Urewera National Park Board, minutes, 7 March 1974 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p127)

1115. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp236–240

1116. Department of Conservation, submission to Lake Waikaremoana Inquiry, 18 May 1998; Department of Conservation, ‘Partnership in Practice: the Aniwaniwa Area Office and Tuhoe’, file note, no date (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p244)

for tangata whenua to have an ‘equal say’ in the management of the Aniwaniwa area of the park.¹¹¹⁷ Hapu representatives attend the annual business planning process which looks at the allocation of finance for the area, as well as bimonthly project planning meetings.¹¹¹⁸ Though falling short of true co-management, this step towards inclusion was welcomed by tangata whenua. Yet, concerns remained that it depends on the goodwill of a particular area manager and at the lack of local influence over funding and strategic decisions being made at a national, regional, or park-wide level rather than by those directly affected. This was seen as limiting the capacity to effect changes of importance to the peoples of Te Urewera in the care and management of the park.¹¹¹⁹ Indeed, between 1997 and 1999, the Maori representatives to the Aniwaniwa planning and management meetings withdrew in protest at the lack of local Maori input to the decision-making process.¹¹²⁰

16.9.4.5 *Protest at Waikaremoana*

The withdrawal of support for the Aniwaniwa model was part of a more public protest by a group of some 50 local Maori (both Ngati Ruapani and Tuhoe) and their supporters, naming themselves Nga Tamariki o te Kohu (The Children of the Mist). In November 1997, the group occupied an area of the shore near Home Bay that had been exposed by the lowering of the lake level. They protested alleged breaches of both the Treaty of Waitangi and the 1971 lakebed lease, citing DOC mismanagement of the local environment as their principal grievance (see sidebar over).¹¹²¹ There was also dissatisfaction with the conduct of the Tuhoe-Waikaremoana Maori Trust board, which was perceived as not representing the interests of the real owners of Lake Waikaremoana and the surrounding area, and as being complicit in a number of unpopular DOC decisions.

After 66 days, the protesters reached an agreement with the Ministers of Maori Affairs and Conservation that, in return for ending the occupation, an inquiry would be held into their grievances.¹¹²² The inquiry received 69 written submissions and 20 oral submissions and DOC was given the right to respond. In general, the department defended its actions by reference to its governing legislation and submitted that it had complied, as required, with ‘transparent, and consultative processes for drawing up plans for management of Urewera National Park, as for any other National Park.’¹¹²³ Its submission concluded: ‘The Department is proud

1117. G Mitchell to V Seaton, 12 March 2002 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 244)

1118. Mitchell, brief of evidence (doc L9), p 30

1119. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 246–247

1120. ‘Joint Ministerial Inquiry – Lake Waikaremoana’, 27 August 1998 (doc H13), p 17. The joint management model was back in ‘full operation’ by June 1999: Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 256.

1121. Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), pp 247–248. The group had been formed in 1985 during the struggle to oppose the cutting of native bush on the ‘sacred maunga Tairahia’: Tame Iti, brief of evidence, 10 January 2005 (doc J22), p 11.

1122. Anaru Paine, brief of evidence, 18 October 2004 (doc H39), p 11

1123. Department of Conservation, submission to Lake Waikaremoana inquiry, 18 May 1998, p 7 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 249)

‘We Were Sick and Tired of the Crown Bodies Polluting . . . Our Beautiful Lake’

Claimant witness Joseph Takuta Moses summarised the reasons for the occupation of Lake Waikaremoana. In the protesters’ view, the Crown and more particularly the Department of Conservation had failed to protect the lake, at the same time, making it impossible for them to fulfil their own obligations of kaitiakitanga:

We contended that the following actions were damaging our relationship with our lake:

- The use of poison to eradicate pests;
- Our mahinga kai were being polluted with human waste and refuse and as a result of roading and other developments around the lake;
- The lowering of the lake and the unnatural lake level fluctuations caused by the hydro were eroding the edges of the lake;
- The Crown was not protecting our native forest and logging was occurring that was stripping the bush of trees that were up to 400 years old;
- The Crown had allowed the infection and spread of giardia through the lake;
- The Crown was failing to protect kiwi, the wildlife of Waikaremoana;

of the special links it has with Tangata Whenua in this conservancy, and the process for on-going input into management, which are at the leading edge of iwi involvement in conservation management.¹¹²⁴

The inquiry accepted many of DOC’s explanations but stated that ‘more can be done to better achieve respect for the culture and values of the tangata whenua’ in its management of the Lake Waikaremoana area.¹¹²⁵ It urged DOC to be innovative in adopting more cooperative, community-based approaches to management of the leased lakebed area and recommended that a formal agreement with tangata whenua be reached about the future approach.¹¹²⁶

The allegations made to the ministerial inquiry in 1998 were largely repeated to this Tribunal in 2004 and 2005. Several claimant witnesses gave evidence that the inquiry’s recommendations had produced only limited results.¹¹²⁷ James Waiwai told us that local hapu, the two trust boards, and DOC did get together to discuss the matter of a formal agreement about the management of the lake and the surrounding lands, but the relationship soon broke down. In his view, DOC’s approach aggravated existing tensions between the trust boards and the local

1124. Department of Conservation, submission to Lake Waikaremoana inquiry, 18 May 1998, p 28 (Coombes, ‘Preserving a “Great National Playing Area”’ (doc A133), p 250)

1125. ‘Joint Ministerial Inquiry – Lake Waikaremoana’, 27 August 1998 (doc H13), p 18

1126. *Ibid*, p 19

1127. See, for example, James Anthony Waiwai, brief of evidence, no date (doc H14), pp 22–23; Tahuri O Te Rangi Trainor Tait, brief of evidence, 18 October 2004 (doc H29), pp 20–21.

- ▶ We, the Tangata Whenua were being denied customary rights as Trust Boards were spoken to instead of us;
- ▶ The lease of the lake was being breached;
- ▶ The building of a bridge near the Wiotukupuna Stream was desecrating one of our urupa and in an area of spiritual importance to Maori;
- ▶ The Trust Board was allowing the erection of a satellite bowl by Telecom on Te Maara A Te Atua;
- ▶ The Department of Conservation encouraged the public to trespass on Mokau Pa, which is private land;
-
-
-
-
-
- ▶ Department of Conservation officers violated an urupa at Mokau;
- ▶ The Crown was allowing sewage to leak into the lake;
- ▶ The Department of Conservation inappropriately renamed sites around Lake Waikaremoana; and
- ▶ Those from outside the region were being preferentially employed by the Department of Conservation.¹

1. Joseph Takuta Moses, brief of evidence, 18 October 2004 (doc H15), pp 6–7

hapu.¹¹²⁸ Coombes criticised DOC's response to the inquiry for lacking vigour: 'Essentially, the Conservancy argued that the *status quo* process functioned well, so there was no need for change.'¹¹²⁹ The conservator at the time of our inquiry told us that the department had not pursued a formal agreement about the management of the lake because of the 'expressed satisfaction' of the local people with the status quo.¹¹³⁰ He referred to the Aniwaniwa management model, which was re-established in 1999, is informally based, and involves the Waikaremoana Maori Committee and the Ruatahuna Tribal Committee in business planning, as having given effect to the ministerial inquiry's recommendation that the department enter into an agreement with tangata whenua.¹¹³¹ But criticisms frequently voiced by claimants were that the Aniwaniwa model is not in place elsewhere in the national park and that it is not a true example of co-management. The chair of the Tuhoe-Waikaremoana Maori Trust Board told us:

To the credit of the Area Manager, a co-operative management committee (as I call it) was established in Waikaremoana Area. This committee comprises of tangata whenua from Ruatahuna and Waikaremoana to assist the Area Manager by way of

1128. James Anthony Waiwai, brief of evidence, no date (doc H14), p 23

1129. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 252, 253

1130. Williamson, brief of evidence (doc L10), p 18

1131. Ibid

advice. However no other arrangements have been made for other parts of the Park notably the northern end where considerable friction and tension with tangata whenua has occurred from time to time. As laudable as DOC might consider its response to be, the initiative falls far short of real shared decision making relationships with tangata whenua.¹¹³²

Since the lakebed inquiry, the Kiwi Restoration Project has become a cooperative venture between DOC and the Lake Waikaremoana Hapu Restoration Trust after Landcare Research completed its involvement in the project in 2002. Trust chair James Waiwai told us that the trust has been included in, and had satisfactory input into, bimonthly planning sessions for the project together with DOC.¹¹³³ He added, however, that DOC's approach in the Waikaremoana area of the park is unique:

Our involvement . . . came down to the personal commitment of the DOC staff here in Waikaremoana. We were lucky, because the manager at the time, Glenn Mitchell (and luckily he's still there today) really wanted to get us involved at a more meaningful level. I know this, as outside of the Kiwi Recovery Programme, when I meet with other DOC staff in other capacities, they are really hesitant about giving tangata whenua as much involvement as we have in this area.¹¹³⁴

The conservator at the time of our inquiry confirmed that DOC's management at Aniwanuiwa is 'outside common departmental practice', explaining that 'The Area Manager was prepared to be flexible, completely open and to accommodate a style of working that recognised the wishes, aspirations and principles of the tangata whenua.'¹¹³⁵

The evidence is unclear as to why the Aniwanuiwa model has not been adopted in other parts of the national park. In 1999, the idea of extending it to the western areas of the park was mooted, but this had not occurred by the time of our inquiry.¹¹³⁶

16.9.5 Conclusions

Despite the close proximity of resident Maori communities to Te Urewera National Park, the park board and its successors seem to have been unwilling to consider how to make local involvement in governance, management, and day-to-day running of the park work on any sustained basis. Indeed it is an indictment of both the legislation and the successive national-level policy bodies that they gave no

1132. Temara, brief of evidence (doc K15), p 10

1133. Waiwai, brief of evidence (doc H14), p 14

1134. Ibid

1135. 'Partnership in Practice', no date, pp 2-3 (Coombes, supporting papers to 'Making "Scenes of Nature and Sport"' and 'Preserving a "Great National Playing Area"' (doc A121(a)), pp 272-273)

1136. 'Te Urewera National Park Management Plan Review Meeting', 26 March 1999 (Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 258)

lead on these crucial matters. Rather, the unique situation in Te Urewera was not seen to pose a serious challenge to the Crown's objectives for national parks, that were – and remain – largely antithetical to Maori interests in their ancestral lands. Had the situation in Te Urewera been fully understood, it would have taken legislative change to free it from the strictures of the national parks system. The advent of the Conservation Act 1987, with its Treaty clause, was insufficient to bridge the gulf between the National Parks Act's ideology and the Crown's responsibilities to the peoples of Te Urewera. Faced with the challenge of giving some meaning to the clause, the conservation department and the current statutory advisory bodies have, for the most part, interpreted it as requiring Maori involvement in departmental processes. Only occasionally, when national park and Maori objectives coincide, is the clause interpreted to give Maori a more active role in policy or decision making.

The ministerial decision to appoint a Tuhoe representative to the park board at the outset, and later to add a Ngati Kahungunu representative, despite the lack of requirement in the parks legislation, is telling. Clearly the Crown considered there was good reason for such appointments in the case of Te Urewera National Park, which makes it even more surprising that no legislative provision was made in 1980 for them. But, as indicated above, more radical change would have been needed, in our view, to put iwi representation on a Te Urewera park board on an acceptable footing. While the objectives of the national parks system remained unchanged, formal representation of the peoples of Te Urewera on the park board, even in greater numbers than has ever been the case, would not solve the fundamental problem of their interests being outweighed by those that are preferred by the governing legislation.

From 1969, the one formal opportunity for involvement of local communities in park management was as honorary rangers. That is, local people might be employed in unpaid positions. Over time, many such rangers were appointed, but although the number of Maori included in the scheme increased marginally in the 1970s, they remained a minority. From the limited evidence presented to us, it appears that the appointment of honorary rangers, while representing an opportunity to improve relations between communities and the park board and staff, was ultimately an opportunity not taken, and that these relationships continued to be defined by poor communication on the part of the park board, and, perhaps, mutual lack of trust. After 1980, when the powers of honorary rangers were far more limited, and professional staff were more numerous, appointments of honorary rangers declined, further weakening their role.

On one further matter of considerable significance to local communities, because of their dependence on hunting – the issue of hunting permits – it is also striking that local park management was unable to reach any long-term, mutually acceptable agreement with the people. The involvement of local Maori representatives was short-term, despite there being very practical reasons why the board should have persisted to make it work. It would have assisted local communities not only in their daily lives, but in a matter which was a constant irritation to them

– the trespass of visiting hunters on their land. Had they had more control over the issue of permits, they might also have impressed on hunters the importance of not trespassing on Maori land. Visiting hunters, however, felt that such a system of issuing permits favoured Maori. It seems that the park board was concerned to preserve its relations with visiting hunters, rather than to establish trust and goodwill with its Maori neighbours.

More recently, the Aniwanuiwa management model, which does involve local iwi committees in decision-making on day-to-day matters, has been a very welcome development. But it has been the result of the initiative of one area manager and his staff, in one part of the park. There is a local fear, therefore, that such an arrangement might yet prove simply a short-lived experiment.

Overall, the record of involvement of local iwi in governance, management, and everyday running of a park – which is the most dominant feature in their landscape, created on their ancestral lands, with which they retain strong associations, and administered in ways which affect their lives so closely – is not impressive. In over 50 years of park administration, the Crown made little effort to ensure the active participation of local iwi, particularly Tuhoe. The challenge to the Crown now is to heed recent positive developments and how they have been achieved, and to work with iwi leaders to implement real change.

16.10 TREATY ANALYSIS AND FINDINGS

16.10.1 The origins of a national park

16.10.1.1 *The Treaty context*

The origins of the national park lie in the Crown's broken promises to the peoples of Te Urewera:

- ▶ its undermining of the UDNRA and its promise to give effect to Maori autonomy;
- ▶ its defeat of tribal opposition to sales by purchasing individual interests in breach of its promise only to buy land from the tribal collective;
- ▶ its acquisition of just over half of their Reserve by means of unfair, predatory, and at times illegal purchases, followed by a consolidation scheme in which it acquired yet more land (a further 20 per cent of the Reserve), all in serious breach of Treaty principles.

This was the land that was later set aside as a national park, for water and soil conservation and to preserve its 'wilderness' landscape for the nation. Tuhoe cannot get past these facts, while other New Zealanders are simply unaware of them. In 1986, a Lands and Survey official commented:

It would be reasonable to assume that at the time of purchase a state of 'willing-seller-willing-buyer' existed and that a fair price was paid for the purchase of the land . . . The argument for the retention of the Tuhoe areas as 'homeland' surely loses weight when this part of the Urewera history is considered.¹¹³⁷

1137. Coombes, 'Preserving a "Great National Playing Area"' (doc A133), p 348

This is a myth that has long dominated New Zealanders' view of Te Urewera and the origins of the national park. For so long as this myth survives, there can be no informed appraisal of the national park and its place in the life of the nation. We hope that our report has finally laid this myth to rest forever.

The Crown acknowledged in our inquiry that most of the lands that comprise the national park were acquired by it in breach of Treaty principles. This point is no longer in doubt. As we have seen in previous chapters, the lands were promised by the Crown – and legislated – to be a native reserve. Within a remarkably short time, however, the Crown reneged on its obligations with regard to the Reserve and embarked on a completely different plan for much of the land – purchase and pastoral development by settlers. That involved surveying out the Crown's wrongfully acquired portion of the land from the land that remained in Maori ownership (the Urewera Consolidation Scheme). Having 'sold' the new plan to the Maori landowners by promises of surveys, registrable titles, roads, and other benefits, the Crown reneged on that arrangement too, leaving the owners with far less land than they had started with, and without compensating advantages.

We concluded in chapter 13 that, by its wrongful conduct in undermining the Urewera District Native Reserve and creating the impetus for the Urewera Consolidation Scheme, the Crown's Treaty duties to the Maori owners in relation to the UCS were that much greater. We concluded in chapter 14 that, by failing to deliver the promised benefits of the UCS, the Crown breached its heightened Treaty obligations to the Maori owners, causing them further prejudice. Both sets of Treaty breaches were of a very serious nature. As a result of them, the owners of some 656,000 acres of native reserve in 1896 were left with around 164,000 acres (including Manuoha and Paharakeke, and the Ruatoki blocks) in 1927. We have examined the impacts of this on the Maori communities of Te Urewera in chapter 15. The Crown's next dealings with the peoples of Te Urewera must be assessed against that grim backdrop.

The Crown was now required to take particular care to protect the peoples' interests in their remaining lands. The Crown's Treaty duties – including the duties of active protection and acting with utmost good faith towards its partner – applied with heightened intensity because of its two previous sets of broken promises.

16.10.1.2 *The Maori context*

In the decades immediately following the consolidation scheme, the peoples of Te Urewera continued their customary way of life as far as they were able. They ranged across Crown and Maori forests to hunt, fish, and collect valued plants for food, for rongoa, and for weaving. Alongside that, they attempted to have land milled and then farmed (which was largely blocked by the Crown) and to establish farming on already-cleared land. During the 1930s and 1940s, the Crown-assisted farm development schemes were essential in enabling Maori communities to survive. Outside of those schemes, Maori struggled to farm their scattered, isolated, and too-small blocks of remaining land.

It was only the development of a timber industry to the south-west after the

Second World War, based at Minginui and Murupara, that created significant employment in our inquiry district. At the time of the establishment of the national park in 1954, the local Maori communities were dependent on the park lands for subsistence, dependent on a single industry for what employment was available, and dependent on the logging and development of their land if there was to be a non-welfare-based future, utilising instead the economic resources of their turangawaewae, their ancestral land. While many individuals had to leave in search of employment, the tribes needed to maintain a cultural, social, and economic base in their 'homeland' for their continued survival as tribes in their ancestral rohe and for the future of their peoples. From the 1950s to the present day, the Maori communities of Te Urewera have suffered endemic and long-term deprivation: low income levels, high unemployment, and poor quality housing and health relative to the rest of New Zealand, including most other Maori.

This was the situation of the local Maori communities when the park was established on their doorstep in 1954, taking in their lake and the Ruapani reserves. From 1957, they have found themselves on isolated 'enclaves' inside or adjacent to the national park. The creation of the park posed new threats to their survival in their rohe. Before 1954, they had been able to continue their customary relationships with their forests (even though the ownership lay with the Crown), to use those forests for food supplies and to supplement their incomes, and to control and conserve the resources, largely without interference. In 1953, their new understanding with Maori Affairs Minister Corbett meant that they could finally begin milling their more accessible lands, with a view to future development in farming or exotic forestry.

If they were to continue living on their turangawaewae, Maori communities in Te Urewera needed to be able to continue the customary food-gathering and other practices that had sustained them for generations, and to use their remaining lands to secure an ongoing economic benefit. The question facing them was: what effect would the establishment of a national park have on their cultural, social, and economic situation, and on their ability to exercise tino rangatiratanga over their remaining ancestral lands?

16.10.1.3 The national interest context

In the 'national interest', as it was defined in the 1950s, the watersheds of Te Urewera needed to be preserved so as to protect the lower lying farmlands of the Bay of Plenty and Hawkes Bay from flooding, and to protect the electricity-generating capacity of Lake Waikaremoana. At the time, this could have been done by means of a forest park or even a State forest, in which a combination of controlled logging and pest control protected enough forest to prevent erosion and flooding, while still allowing public access for a range of activities. Coombes argued – and we agree – that the Maori customary economy operated more easily in forest parks than in a national park.¹¹³⁸ But there was also a national interest

¹¹³⁸ Coombes, 'Preserving a "Great National Playing Area"' (doc A133), pp 326, 454–463, 483, 521–523

in preserving unique landscapes, scenery, and indigenous flora and fauna. In the 1950s, the highest form of protection that could be given – where the Crown did not perceive a conflict with other matters of national interest such as the farming economy – was as a national park. In 1954 and 1957, the Crown took the view that these matters of national interest coalesced: the utmost protection would be accorded to valuable low lying farmland, by at the same time protecting a unique ‘wilderness’ in a country where few such landscapes remained.

16.10.1.4 A clash of interests; a clash of opportunities

In his evidence for DOC, Peter Williamson told us that the overriding concern is to ‘restore the dawn chorus’. The claimants were not unsympathetic to this view. Indeed, they too wished to preserve their taonga – the forests, the birds, and the landscape of their ancestors – but the key question was: what price was to be paid for this preservation, and who was to pay it? Were the farmers of the Bay of Plenty and Hawkes Bay to pay the price? Were the consumers of Waikaremoana electricity to pay the price? Or were the tangata whenua living adjacent to or inside the park to pay the price? Whose economic interests and opportunities were being protected by the establishment of the park? Whose interests were benefited? And whose economic interests and opportunities were being foreclosed by the creation of the park?

Seen in those terms, we can only conclude that the park was established to protect the economic and social interests of the communities of the Bay of Plenty and Wairoa/Hawkes Bay. But there was more to it than that. As we have seen, the degree of protection provided by a national park was significantly higher than strictly necessary to prevent erosion and flooding. This was principally because Corbett and many others saw the entire nation as having an interest in the preservation of this ‘remnant’ ancient landscape of New Zealand. In the 1890s, the ‘remnant’ landscape was Maori land, and so interests were seen to dovetail in a ‘native’ reserve. In the 1950s, there was not merely a remnant landscape but also now a remnant of Maori land, and the interests no longer dovetailed; hence there was a ‘national’ and not a ‘native’ reserve. At that time (as now), the legal principle in New Zealand is that if private land is needed for a public work then compensation is paid. But private Maori land was effectively reserved alongside Crown land in Te Urewera for the benefit of the nation in 1954 and 1957, and in breach of that principle of compensation.

So, in the interest and for the benefit of the nation, a national park was established to protect and preserve the indigenous forests of Te Urewera. The nation benefited; Maori paid the price. Their interests were overlooked, inadequately provided for, or ignored. This pattern was established at the very inception of the park by a failure to consult with those who would be most affected by it.

16.10.1.5 Consultation: an opportunity and a breach

At the beginning, in 1954 and 1957, there was a unique opportunity for a unique circumstance. No other national park was designed to enclose significant Maori communities and Maori land within its borders. The fundamental needs of those

communities – ongoing customary use of the natural resources of the area and ongoing economic benefit from their remaining lands – were utterly contradicted by the Crown’s plan to create a national park. New Zealand’s national parks were designed for recreational use, including tourism and the infrastructure that would modify parts of the parks to support tourism. But their rationale did not include Maori customary uses of natural resources, let alone Maori actually living on or using their own lands inside a park. Either the Crown’s plan carried with it the inevitable consequence that the park was to replace or oust the Maori communities, or the plan had to be modified to take account of their presence and their interests.

As we see it, it was not beyond the capacity of the Crown to have redesigned the national park schema to fit the unique circumstances of Te Urewera. After all, that was what national parks were supposedly all about: preserving unique landscapes and environments, over and above lesser-status reserves that served a variety of purposes.

In 1950, Tipi Ropiha advised his Minister that the Crown needed to develop a comprehensive plan for Te Urewera, that would balance long-term forest protection with Maori being able to retain (and benefit from) their last pieces of ancestral land. The Crown, he noted, had a special duty in this respect. Indeed, the Crown set up a system to classify potential uses of Maori land at Ruatahuna, and relaxed its restrictions from 1953 to permit milling on some of the more accessible Maori land. This was very promising. It could reasonably have been expected that the Crown would consult with Maori communities about how the values of a national park might be made consistent with a Maori people living on (and using) their ancestral lands. This was especially necessary in 1957, when the park was extended to neighbour almost all the remaining Maori land (and to enclose some of it altogether) – a challenge that remains today.

Over and above any Treaty duty to Maori, there was also what Tama Nikora called a ‘local’ duty. We find it difficult to believe that the Crown would have enclosed Pakeha communities inside a national park in the 1950s – even in the national interest – without consulting them and considering their interests. It had such a duty, whether the local community was Maori or non-Maori (or both). And, as we have said, it had Treaty duties to the peoples of Te Urewera that made this responsibility all the greater.

The Crown argued in our inquiry that it had no statutory obligation to consult ‘with Urewera Maori concerning its incorporation [of Crown land] in a National Park’:

On the other hand, even in the context of the time, it was an appropriate course to consult adjacent land owners. This was particularly so, given the Maori-owned land that did not form part of the Park was likely to be affected by such decisions. This consultation occurred.¹¹³⁹

1139. Crown counsel, closing submissions (doc N20), topic 33, p 4

As we found in section 16.5, this supposed consultation was not in reality about the establishment of the park. There was no meaningful consultation on that point, either in 1953–54 or in 1957. The Government was already committed to a large park by 1953, and in that sense the die was cast before it held its first discussions with Tuhoe. In 1955 and in 1957, when the Government made decisions about reviving its attempt to buy Maori land, there was little evidence of concern for the plight of Tuhoe. There was no discussion of alternatives to a massively increased national park – such as a smaller increase, or a forest park – or even how to accommodate their traditional uses, let alone provide for an economic base. In the discussions that did take place, the Crown referred to the park not so as to discuss its implications for the local communities, but to counter their suspicion that the Crown wanted more Maori land in order to mill the timber on it. Ultimately, the only genuine question asked of Tuhoe was what the park should be called. And even that, the Crown got wrong.

The Treaty principle of partnership requires the Crown to act in the utmost good faith, and to make fully informed decisions where Maori interests are at stake. Where the interest is large and the possible effects significant, the Crown is required to consult. The Crown is also required actively to protect Maori interests in their lands and waters, to the fullest extent reasonably practicable. In order to do so, it is required to consult Maori and work in partnership with them, certainly where the interests are so central to Maori as to involve the entire fate of their remaining ancestral lands. The Crown admits that, by the standards of the time, it had a duty to consult the park's prospective neighbours, whose interests would be affected by its establishment.

There is no disguising the fact that the Crown knew serious Maori interests were at stake. The dependence of Maori on customary resources for food and survival was well known (indeed, until 1945 welfare benefits were calculated at a lower rate because of their 'communal lifestyle'). And the Minister was well aware of the need for Maori to mill their lands. He had just agreed to a land-use classification exercise and to relax previous restrictions on milling. We see no reason why the Crown could not have extended the work of (and the Maori representation on) the Urewera Land Use Committee to the whole district. Its results could then have been used to determine the reasonable size and scope of the park, and how its effects on Maori economic opportunities could be managed so as to protect their interests while still providing for the 'national interest', as it was then defined. We also see no reason why the national park philosophy, which permitted or even encouraged recreational uses of national parks, could not have been tailored to foster ongoing Maori uses of the park. Subsequent events showed that conflict between preservation and Maori customary uses can be reconciled where there is the will to do so. Also, we see no reason why Maori could not have been consulted about their representation and role in the park's management, as Ngati Tuwharetoa had been with regard to Tongariro National Park. None of these things was impossible; all of them, by Treaty standards, were reasonable.

Why did these things not happen? Quite simply, because the Crown came to the view in the mid-1950s that Maori would have to sell all their land and move

away from the park. Maori were not consulted about this view, nor did they agree with it.

The establishment of the park in 1954, and its massive expansion in 1957, were thus conducted in a manner inconsistent with the Crown's Treaty duty to consult local Maori communities and actively protect their interests. A differently sized, differently designed, and differently governed park was by no means impossible in the circumstances of the time. The Crown's failures were in breach of Treaty principles. And from this defective foundation, an edifice was constructed with an inbuilt or structural tendency to protect what was perceived as the national interest at the price of Maori interests.

16.10.1.6 A national park need not breach the Treaty

We see no necessary inconsistency between the establishment of a national park, in the national interest, and the active protection of Maori interests in their ancestral lands and waters. Both interests could have been provided for; both peoples could have been provided for. Maybe a forest park would have better protected the interests of all. But there was, as the Crown pointed out, much Maori support for the idea of conserving the forest resource. First, if they had they been fully consulted; secondly, if the park had been modified in its design and operations by a full accounting of their needs; thirdly, if they had been included in the proposed management structure; and, fourthly, if their agreement had been obtained; there would have been no breach in establishing a national park. Whatever the Crown did with these lands, they were going to remain an ongoing source of grievance to the peoples of Te Urewera because of past Treaty breaches, unless meaningful redress was provided and development opportunities fostered. Much of the anger that is directed at the national park has its roots here, and, in our view, some of it has little to do with the national park itself.

16.10.2 The prejudicial impacts of the national park

The park was established in 1954, and expanded in 1957, without taking the various needs of Maori communities into account. Inevitably, therefore, an 'unreconstructed' park was going to have some negative impacts on Maori interests. It was designed to accommodate tourists and recreational users but not permanent residents inside its borders or its self-appointed buffer zones.

16.10.2.1 The impacts of the park on the economic opportunities of its unwilling neighbours and residents

As we discussed in section 16.6, the park's establishment embodied and gave a specific shape to the Crown's forest preservation policies. It is undoubtedly the case that these were more extreme than would otherwise have been necessary to prevent erosion and flooding. The goal became to prevent what were seen as incompatible land-uses, including timber milling, deer farming, and exotic forest plantation, on Maori land inside the park or in the 'buffer zones' abutting it. Alongside this concern was a more pervasive public fear that any milling at all on Maori land in Te Urewera might threaten the lower-lying farmlands of the Bay of Plenty and

Wairoa. By 1959, this was already known within Government to be an unreasonable fear. Yet, public concern on this point – and opinion about any milling in or close to a national park – resulted in policies which greatly restricted the ability of Maori landowners to use their remaining lands and timber resources from 1960 onwards. In practical terms, milling continued where consent had been obtained before 1960, and consent to controlled milling could still be obtained afterwards, but on the whole Maori were denied the economic use of their forest lands from the 1960s. Instead, the Crown pressed to buy those lands for the park.

As Crown counsel pointed out, the Crown only succeeded in buying some 38,000 acres – the Manuoha and Paharakeke blocks – from their incorporated owners. In the Crown's view, its lack of success means that its attempts could not have been in breach of the Treaty. We disagree. Its duty, as so aptly outlined by Ropiha in 1950, was to balance the need for forest protection against the need of Maori to retain and benefit from their last pieces of ancestral land. The Crown breached this duty. There is little comfort in its lack of completed purchases, which can be explained by the very limited funds provided for expanding national parks, the lack of political will to provide more, and the steadfast refusal of owners to sell. The cheapest option for the Crown was simply to prevent Maori from using their lands. The issue of a section 34 notice in 1961 required the payment of compensation for specific refusals of the right to mill. But the Government itself noted that 'many' applications in Te Urewera were never even lodged because it was not worth the timber companies' while when refusal seemed certain. Promising initiatives in the 1950s – relaxation of milling restrictions and a principle of compensating where new restrictions were imposed – thus came to an end in the 1960s. For a time, pre-approved milling on the more accessible land, and jobs in the forestry industry to the south-west, cushioned the effect of a growing stranglehold on the ability of Maori communities to develop and use their lands.

The Crown's policy in the 1960s and 1970s was to secure a mass-surrender of all Maori land in or adjacent to the park. It had its greatest success in the Waikaremoana district, where it obtained the bed of Lake Waikaremoana in 1971 and succeeded in locking up the Ruapani reserves as permanent historic/scenic reserves in 1972. It also had some success in the east of the inquiry district, where, as noted, it obtained the Manuoha and Paharakeke blocks. By the early 1970s, Tuhoe leaders were so anxious about the economic prospects of their communities that they were prepared to negotiate a long-term lease of all their lands to the park, in exchange for farm or forestry (Crown) lands elsewhere in their rohe. Lease/exchange negotiations ultimately failed after more than a decade, because Tuhoe leaders were concerned that the proposed basis of exchange was inequitable, while the Tuhoe people generally were not prepared to relinquish yet more ancestral land, even to get other land in exchange. For the Crown's part, the cessation of logging on Maori land in the 1970s meant that it no longer needed to worry. As the commissioner of Crown lands stated in 1984, Tuhoe lands were, 'when all is said and done, protected as virtual national park'. This outcome, so inimical to the social and economic interests of Maori communities, could have been avoided. Instead, the Crown welcomed it and had done much actively to bring it about.

Thus, while the Crown's efforts did not secure it much in the way of actual purchases, it succeeded in significantly limiting what the Maori owners could do with their land. Yet, they refused to leave their rohe. In 1971, Tuhoe leaders told Minister of Maori Affairs Duncan MacIntyre, 'There is not much Tuhoe land left . . . We believe, Sir, that we would find no peace in heaven if we suffer these remnants to be alienated.'¹¹⁴⁰

Aside from the farm development schemes, farming was not a great success on the small, scattered, already-cleared lands. It was inhibited by the problems of multiple ownership, lack of access to development finance, and – for some – poor quality land. Planting for exotic forestry faced some of the same obstacles. If economic use of the remaining land was to have any hope of succeeding, more land needed to be cleared, and use of the newly cleared land needed to overcome the obstacles of title and finance. It seems plain from the evidence that such clearance and development could have been monitored and controlled so as to prevent erosion or flooding, despite the active opposition of their 'good neighbour', the national park.

As we shall explore later in the report, Tuhoe tried to overcome all of these problems by amalgamating their titles and engaging with the Crown in the 1970s to lease or exchange land, but that engagement ended with their lands still tied up as 'virtual park'. We cannot say with certainty that farming or exotic forestry would have succeeded but the possibility was effectively foreclosed by the Crown. We find the Crown in breach of the plain meaning of article 2 and of the Treaty principle of active protection for thus restricting ownership rights and land development without sufficient cause.

16.10.2.1.1 SPECIFIC BREACHES – LAKE WAIKAREMOANA

Lake Waikaremoana had been included in the park in 1954 without discussion or agreement, despite the fact that the Crown finally acknowledged Maori ownership of the lakebed in that year. The park then had use of the lake, the jewel in its crown, even though all visitors were known to be trespassing on Maori land (first to get to the lake and then by boating on the lake itself). After a series of abortive negotiations from 1961 to 1971, the Crown was finally driven to reach agreement by the fact that Maori landowners could legally stop all public access to the lake if they chose. Backdated to 1967, the Crown agreed to lease the lakebed for an annual rental. We will consider specific claims about these negotiations and the lease later in this report. Here, we note that it was the needs of the park that finally pushed an unwilling Crown to accept that Maori should obtain an economic return from their 'asset'. We agree with the claimants, however, that the rent should have been backdated to (at least) 1954, when the Crown accepted Maori ownership of the lake yet began using it in the national park without permission or recompense.

1140. Sonny White, presenting the submissions of the Tuhoe Maori Trust Board to the Hon Duncan MacIntyre, 'Nga Take a Ngai-Tuhoe', 23 April 1971 (Bassett and Kay, supporting papers to 'Ruatahuna' (doc A20(c)), p 298)

The Crown breached article 2 rights by appropriating Maori property for its park without agreement or payment.

16.10.2.1.2 SPECIFIC BREACHES – THE RUAPANI RESERVES

The history of Ngati Ruapani and their lands has been outlined in earlier chapters of this report. Their lands had been stripped from them in breach of the Treaty in the four southern blocks (see chapter 7), the Waipaoa block (see chapter 10), and finally in the Waikaremoana block (see chapter 14). Their desperate attempts to increase their farmable land during the Urewera Consolidation Scheme had resulted in yet more broken promises. Apart from the dubious benefit of the Waikaremoana debentures, Ngati Ruapani were left with their share of two tiny reserves from the four southern blocks, and just 607 acres in 14 reserves on the northern shores of Lake Waikaremoana. Then, from 1954, central and local government worked in tandem with the park authorities to prevent Ruapani from making any economic use of their reserves, and even from living on them. It is a testament to the great value of this last remnant of ancestral land to its Maori owners that they resisted pressure on them for outright sale of these reserves to the Crown. Finally, a compromise in 1972 saw these 14 pieces of land made historic and scenic reserves under the Maori Affairs Act. Maori ownership was retained but the land continued (as it had been since 1954) as 'virtual park'. The same ends could have been achieved by leasing this land for the park, as with the lakebed the year before, and paying an annual rental. This option was not chosen by the Crown.

In our view, this is the most serious of the specific Treaty breaches in respect of the national park. The Crown refused to allow Ngati Ruapani larger reserves in the Urewera Consolidation Scheme, broke its promise to provide them with farmable land south of the lake, deprived them of virtually any benefit from their debentures, and then – the last in a long line of injuries – refused to allow them to use the reserves that they did get. Ngati Ruapani were significantly prejudiced; this was the last remnant of their ancestral estate, put permanently beyond their reach in the national park.

16.10.2.1.3 SPECIFIC BREACHES – MANUOHA AND PAHARAKEKE

We agree with the Crown that the Maori owners of Manuoha and Paharakeke were willing sellers. We do not, however, agree that they were enabled to make an informed choice. They requested the necessary information to verify the figures in the Crown's purchase offer, but were not supplied with the valuations. Had they received full information, they would have discovered that their land and timber had been valued at £158,000, and that the value had been adjusted downwards to fit a minimum price of £140,000. The original basis for this minimum price was a suggestion from AD McKinnon of the Forest Service that the merchantable timber could either be valued purely at Forest Service minimum stumpage (£72,000) or to take into account the values agreed between the Maori owners and Bayten Timber Company (£89,000). The non-merchantable timber was valued at £60,000 and the land at £9,000. It was generally agreed within Government

that the 1960 Government valuation of the land (at £5,000) was too low. But when it was discovered that the Government was legally obliged to match the Bayten's valuation of £89,000 for the merchantable timber, the Lands and Forests officials agreed to a new, 'arbitrary' figure of £45,000 for the non-merchantable timber, and to bring the land value back down to £5,000. The Maori owners were then told that the merchantable timber was worth £89,000, the non-merchantable timber was worth £45,000, and the land was worth £5,000. Unaware that this was not the actual valuation put forward by the Forest Service, the owners agreed to sell their land at that price.

The purchase of Manuoha and Paharakeke was not a purely commercial arrangement. The Crown had an unfair advantage because it had imposed a virtual monopoly, withholding consent to the timber-cutting application so that the owners could make no other use of their land. This does not mean that the Maori owners were unwilling sellers, but it did put them in a disadvantageous bargaining position. The Minister of Forests in 1960, Tirikatene, was well aware of this and stated that this purchase had to be a 'model' purchase, and it had to be based on an 'accurate and fair measurement and valuation'. That being the case, the Crown should have offered what the Minister of Lands reported to Cabinet in 1961 was the value of the land and timber: £158,000. We have no quarrel with the 'measurement' part (Berryman's work) but the valuations were reinvented after the Cabinet meeting to match a minimum price (which became the offer price) of £140,000. The valuation should have been disclosed, and – in our view – the offer should have matched the value as reported by the Minister of Lands to Cabinet. We think that the Crown's conduct of the purchase did not live up to Tirikatene's standard, nor was it consistent with the Crown's Treaty duty of active protection. The Maori owners of Manuoha and Paharakeke were prejudiced by this Treaty breach, having been short-changed by £18,000, a substantial figure at the time.

16.10.2.2 *The economic opportunities provided by the park*

Maori do derive some economic benefit from having a national park as their neighbour. The primary benefit in the past has been the opportunity to derive some income from pest control, particularly trapping possums and hunting deer. Commercial trapping and hunting has been restricted in recent years, due to:

- ▶ the decision to use a cheaper, poison-based method of pest control; and
- ▶ the permission for use of helicopters in deer hunting, a form of hunting that is mostly beyond the claimants' means and which often strays on to their lands.

In 1994, the Conservation Authority found that trapping and hunting are just as effective as poison (in accessible areas), and that 1080 should not be used on a long-term footing. The need to consider Maori interests in pest control policies has been made clear to park authorities but the outcomes were not clear to us.

The second benefit for the park's neighbours has been the opportunity to develop tourism ventures on their own (and possibly park) land. We agree with

Professor Murton's judgement that the Crown's failure to build roads (see chapter 14) has significantly affected tourism opportunities. The park is too remote and isolated to attract mass tourism, which dovetails well with the park's recent view that 'authentic' Tuhoe cultural experiences should be fostered. Lack of finance, business skills, and infrastructure has inhibited local people in their attempts to take advantage of tourism opportunities. Te Rehuwai Safaris and Ivan White's Waiau Valley operation seem to have been rare successes. More needs to be done to foster tourism opportunities for local park communities.

The third benefit for the park's neighbours has been the opportunity for paid employment in the park. Maori have mostly been casual employees (especially in the 1980s). We lack the evidence to say whether or not there could have been more employment opportunities for local Maori. It is our view, in light of past Treaty breaches and the desperate state of Maori communities in Te Urewera, that local applicants should be favoured where there are matching qualifications. DOC accepts that the make-up of its workforce does not adequately represent the local population, but says that 'development' opportunities are necessary before that 'ideal' can be realised. On this matter, we agree with the 1998 ministerial inquiry into the Nga Tamariki o te Kohu protest and occupation at Lake Waikaremoana, which found that DOC should closely consider the social conditions in Te Urewera when making decisions that affect the lives of local people, including the provision of employment and training opportunities.

In sum, Maori have derived some economic benefit from the presence of the park but not as much as they could have done (and could still do), and not enough to make up for its stifling of their other economic opportunities. We do not think a finding of Treaty breach is appropriate here. We do, however, state the Crown's Treaty duty so that future breaches may be avoided: consistently with its Treaty duties to redress past grievances and actively to protect Maori interests, the Crown should take the necessary steps to ensure that the park becomes an economic boon for its Maori neighbours, to the fullest extent reasonably practicable.

16.10.2.3 *The impacts of the park on Maori traditional uses and the ability of Maori to exercise kaitiakitanga*

We have said earlier that we see no necessary inconsistency between the establishment of a national park, and the active protection of Maori interests in their ancestral lands and waters. Both interests could have been provided for. But the National Parks Acts made no provision for Maori interests, and identified a number of traditional uses as offences (unless permission was obtained from the park board, in 1952, or the Minister, in 1980). Maori interests were not protected by the legislation at all. We find the national parks legislation therefore in breach of Treaty principles.

Yet, it need not have been. Its emphasis on preservation need not have been incompatible with Maori sustainable uses of resources. In fact, as we have shown, the Act allowed for a number of public recreational uses that had impacts on the

natural environment. The authority addressed the compatibility of preservation and use directly in its 1978 policy, stating ‘The principles of preservation in perpetuity and use by the public need not be in conflict.’¹¹⁴¹

The Act also provided for the extermination of introduced flora and fauna (unless the authority should determine otherwise), and hunting was encouraged in national policies and in Te Urewera park management plans. The need to keep pig and deer numbers under control outweighed the potentially negative effects of dogs, as authorities later conceded. Thus, there were long-term benefits to park flora and fauna to be derived from providing for Maori traditional uses, as the people themselves were well aware.

It is difficult also to see why provision could not have been made in the Act for Maori customary gathering of plants such as kiekie, pikopiko, and rongoa species, which had for generations been taken in accordance with tikanga. Park visitors were unlikely to raid them.

There was from the outset, however, a cultural blind spot in respect of Maori sustainable uses of resources. It was evident when New Zealand officials began attending international conferences on national parks from the mid-1970s. It took them some time to see the point; discussions of indigenous rights to use the resources of parks or protected areas in Pacific or developing countries seemed not to be directly relevant to New Zealand. But over time they came to be well acquainted with such debates, and to present papers which drew on New Zealand (in fact, Te Urewera) examples. Better official understandings arising from such discussions, and from the political changes here in the 1980s as Maori Treaty rights were recognised in some legislation and in the courts, were evident in both national park policy statements and Te Urewera management plans. But the national parks legislation itself was not amended. Perhaps it was considered that when, from 1987, parks came under the administration of the Conservation Act, the Treaty protections in that Act would be adequate. But, as we have seen, they were not. They have led to park authorities improving their processes, their consultation, and their relationships with Te Urewera communities. But they did not overcome the strong feelings within those communities that they have been marginalised in their own ancestral lands, with which their links have never been severed; that their rights and interests are accorded no more recognition than those of park visitors.

We are at a loss to account for the Crown’s failure over time to amend the national parks legislation to accord recognition and standing to Maori communities’ responsibilities as kaitiaki, and their sustainable resource use. In part, the explanation must be that the Crown expected Maori to leave the park, and that their traditional practices would then die out. It was not until the 1980s that officials began to accept that Maori communities would not – and did not need to

1141. National Parks Authority, *General Policy for National Parks* (1978), policy 3.1 (Edwards, supporting papers to ‘Te Urewera National Park’ (doc L12(a)), p1262)

– move away from the park. The result has been ad hoc and fragmented attempts by park authorities to tackle particular ‘problems’, such as:

- ▶ the gathering of the fronds of pikopiko, and of other plants, when taking of native plants from a park was an offence; and
- ▶ the traditional use of horses and dogs for hunting (because other park users, such as the Eastern Bay of Plenty Pig Hunters’ Club, had a strong vested interest as well and could influence policy in favour of their own use of horses and dogs).

The eventual result in respect of hunting was that all hunters were put on the same footing (as when pig dogs were banned completely from the park from 1973, for 10 years). Hunting with the use of dogs was then reinstated, but pig hunters had to be members of a club. One incongruous result was that iwi hunters would have to belong to a pig hunting club. They responded by forming their own. Pig-hunting seasons became shorter, over the years. When Tuhoe sought a longer season in 2001, because of their dependence on hunting for their communities, authorities were unwilling to agree to them hunting on a different basis from recreational hunters. And though special permission was given by the late 1990s for catching pigs out of season for hui or tangi, this too was an informal arrangement, evidently introduced by a ranger in the Waikaremoana area of the park.

The impact of the park regime over decades has indisputably been the continuing toll it has taken on the relationship of the peoples of Te Urewera, particularly Tuhoe and Ruapani, with the Crown. Resentment was early ingrained, and had no single cause. Park authorities were slow at the beginning to consider the likely results of numbers of park visitors travelling through a district filled with sites of importance to iwi; there is no evidence that they discussed this with local leaders or considered how to protect such sites. Destruction and looting of taonga followed. Major sites at Maungapohatu (graves and burial caves) and Waikaremoana and elsewhere were desecrated and plundered. Park staff, initially, acquired taonga with little regard for iwi wishes. There was little thought given to ensuring that local families or hapu could be supported in the exercise of kaitiakitanga in greatly changed circumstances.

In all these respects, considerable progress has been made in working with local hapu and iwi. Sites of wahi tapu have been removed from maps, as Tuhoe wished, and there has been consultation regarding new facilities and DOC activities in the park to ensure that wahi tapu are not disturbed. And, at Aniwanuiwa, park administrators have emphasised the participation of iwi and hapu in the storage and management of taonga, and have accepted that ownership should remain with Maori. But, as with some of the more promising developments of recent years, these advances seem restricted to the Waikaremoana district.

There has been long-standing resentment too of the need to have permits for activities which for generations needed none. The basis of the strong feelings, which we were very conscious of during our hearings, was expressed on one occasion by Tuhoe leader Tamati Kruger. Listening to people at Ruatahuna talk about

taking food from the bush and the rivers, he spoke of the significance of their korero about harvesting, hunting, and fishing:

that is the face of Mana Motuhake . . . That is its awakening in the morning, knowing that you have the mana. It belongs to your family, it belongs to your sub-tribe, it belongs to your tribe. You don't have to go somewhere to beg to ask permission to pick food from a place, [or] if you are allowed to get medicine from the bush.¹¹⁴²

Koina te kanohi o te Mana Motuhake . . . Koina te ohonga mai i te ata i runga i te mohio kai a koe te mana. Kai tou whanau, kai tou hapu, kai tou iwi. Kare koe e haere ke ki te inoi, ki te patai, tena, ka ahei koe ki te haere ki te tango kai main tetahi wahi. Tena ka ahei koe, a, ki te haere ki te tiki rongoa mai te ngahere.)¹¹⁴³

Mana motuhake, freedom to take resources according to tikanga within one's rohe, came from the rights (and the responsibilities) passed down from the tipuna. As the Tribunal put it in its Wai 262 report, to understand the voice of matauranga Maori in environmental issues is to understand the deep values of whanaungatanga or kinship, the core belief of the relationship of people and the environment. Kaitiakitanga is 'really a product of whanaungatanga . . . an intergenerational obligation that arises by virtue of the kin relationship'.¹¹⁴⁴

A statement such as Mr Kruger's is implicitly a challenge to the basis of the view that Maori felt underpinned a national park ethos based in preservation: that it was a superior ethos, and that there was no room beside it for the sustainable use in which their own respect for the environment and for living things was rooted. The failure of the legislation over the years to acknowledge explicitly their own principles and values has not diminished that suspicion. Such recognition would have provided the basis, too, for full representation of the peoples of Te Urewera in the governance and management of Te Urewera National Park. That is, implicit in active use and stewardship must be some power of decision-making. And such representation would also reflect their rights in the park lands, their history on those lands, and the usurping of their rights in the Crown's illegal acquisition of the land, a history for which they have long attempted to secure recognition by park authorities.

Overall, our view is that the park legislation and national policies have not accorded adequate (sometimes any) recognition of Maori traditional uses, practices, and kaitiaki responsibilities, even after the Conservation Act 1987. The Treaty clause in that Act (section 4) requires the Act to be administered so as to give effect to Treaty principles. Significantly, the Court of Appeal held in 1995 that the Treaty clause in the Conservation Act also operates to require DOC to give effect to Treaty principles when it is administering other legislation for which it is responsible, provided the other legislation is not itself inconsistent with Treaty principles.

1142. Tamati Kruger, brief of evidence (English), 15 May 2004 (doc D44), p 2

1143. Tamati Kruger, brief of evidence (Maori), 15 May 2004 (doc D44(a)), p 1

1144. Waitangi Tribunal, *Ko Aotearoa Tenei, Te Taumata Tuatahi*, p 105

Our finding that the National Parks Act 1952 was, and the National Parks Act 1980 is, inconsistent with the principles of the Treaty means that the claimants' argument that the Conservation Act requires DOC to give effect to Treaty principles when administering Te Urewera National Park, and the Crown's argument that DOC does in fact do that, are both misplaced. In our view, the Treaty clause in the Conservation Act cannot operate to require DOC to give effect to Treaty principles when administering the National Parks Act 1980 because, quite simply, that is impossible when the National Parks Act itself is inconsistent with Treaty principles. While that result helps explain the difficulties that have characterised the relationship between DOC and the peoples of Te Urewera in matters connected with the national park, in our view it does not justify the Crown's failure over many years to identify and solve the underlying problem of the inconsistency between the national parks legislation and the Crown's Treaty responsibilities to Maori.

As we have seen, for many years there was a cultural blind spot in the Crown's conception of national parks, that allowed the parks' use and modification for recreational purposes (and even for commercial purposes such as hunting and tourism), and insisted that such use and modification must be done on exactly the same basis for all users. What this approach failed to take into account was that the needs and rights of Maori communities adjacent to the park were not identical to those of other users. Pony clubs and pig hunting clubs were advanced as the reason why the tangata whenua, who were dependent on the park for food and other resources, could not get 'special' treatment. But underlying this theoretically colour blind approach was the Crown's expectation for many years that Maori communities simply could not continue to live in the midst, as it were, of a national park. The 'national' interest trumped their 'local' interest, and their interest as Treaty partners.

Yet, Maori needs were not necessarily incompatible with a park ethos of preservation. Their communities were accustomed to sustainable use of resources; introduced animal populations had to be constantly controlled. The evidence shows clearly that Maori needs and interests were known to park authorities. The national parks legislation should have been amended to meet those needs.

16.10.3 The governance and management of the park

In 1953, Tuhoe met with Minister Corbett. They reminded him of Donald McLean's promises (unfulfilled), and of Carroll and Seddon's promises (unfulfilled). Tuhoe were still waiting, they said, for past promises to be carried out. As we have seen in earlier chapters, a key element of those promises was for the peoples of Te Urewera to be self-governing within the New Zealand State. Tuhoe spoke to us of their mana motuhake, their ancestral authority to determine their own destinies and to manage their own affairs. In the early twentieth century, despite the solemn pledges embodied by the UDNR Act, the Crown broke the collective strength and authority of Te Urewera tribes. The repeal of the Act coincided with a consolidation scheme that left them minority owners with too little land. But Tuhoe as a people remained. Their tribal structures and leadership functioned as best they could without legally recognised powers. So there they still were in the 1950s when

Corbett made the contradictory decisions to allow 'safe' milling and to lock up the whole district as a national park. The peoples of Te Urewera are still living with the consequences of that contradiction today.

Here, we are concerned with the effect of introducing what was effectively a new system of local government to control and manage most of the claimants' rohe. In brief, the Crown's land was controlled and managed (with a light hand) by the Forest Service until 1954. Then, the commissioner of Crown lands became a virtual ruler of the district, with powers, duties, and responsibilities prescribed by the national parks legislation. In 1961, his authority was transferred to a local park board, which managed the park until 1980. Working within the prescriptions of the legislation and national policy, the board was both a decision-making and management body specifically for Te Urewera National Park. Then, from 1980, policy-setting and direction became the role of a series of regional bodies, while management of the park (and advice to those bodies) was transferred first to Lands and Survey and then to DOC. Inevitably, the decision-making and policies of this species of 'local government' exercised authority over the peoples of Te Urewera, both on park land itself and for those communities whose lands had become 'virtual park'.

What is the Treaty standard? For the Crown to have protected the tino rangatira or mana motuhake of the peoples of Te Urewera, it had to provide for them to participate fully in the governance and management of the park (and of the buffer zones that had become 'virtual park'). Their authority to manage their own affairs had to be respected. The authority of the kawanatanga also had to be respected. Where the two overlapped – as they inevitably did in a park set aside in the national interest which was nonetheless the claimants' turangawaewae – partnership institutions were required to give effect to article 1 and article 2 Treaty rights.

The Crown argued in our inquiry that Maori authority in respect of the park, prior to the Conservation Act 1987, was given effect to the extent possible in the circumstances of an earlier time. We do not agree. Tuhoe explained their circumstances and aspirations to Corbett in 1953. They explained their circumstances and aspirations to MacIntyre in 1971. They reminded Ministers and officials, as the opportunity arose, of the promises of McLean and Seddon, and the circumstances by which they had been reduced to small and impoverished landowners in their own rohe. Tuhoe also pressed for formal representation on the park board in 1973 and again in the 1980s. The Minister of Maori Affairs backed their 1973 request, but without success. Astonishingly, the Lands and Survey Department advised a select committee in 1980 that Maori had no 'right' to membership of the park board because, unlike Tongariro and Egmont national parks, there was 'no special historical significance' in the establishment of Te Urewera National Park.¹¹⁴⁵

1145. Briefing paper attached to Director-General of Lands to Minister of Lands, 30 June 1980 (Edwards, supporting papers to 'Te Urewera National Park' (doc L12(a)), pp 896–897)

In 1954, and more so in 1957 when the park was expanded to engulf or abut so much of the remaining Maori land in Te Urewera, the Minister could have sought an amendment to the national parks legislation to include the park's Maori residents in its governance arrangements. This option was always open to the Crown. It actively chose not to adopt it in 1973 and again in the 1980s.

Instead, from 1954 to 1961 local Maori communities had no voice at all in decisions about or management of the park. Then, from 1961 to 1980, there were always one or two Tuhoe representatives on the park board, although – as the claimants emphasised – not ‘as of right’. From 1974, the Minister also appointed a Ngati Kahungunu member to the board. In the claimants’ view, these arrangements were insufficient to give effect to their Treaty rights and authority. In terms of principle, they had no guaranteed membership of the board. In terms of practicalities, this had the effect of making them less secure and less influential. Given that they were always a minority and could be outvoted by the other members of the board – the majority of whom Mr Nikora described as ‘gentleman farmers’ – their membership lacked the power or influence to be described as a genuine partnership.

We agree up to a point. Maori members of the board worked hard for their people and did exercise influence, but they were too few to have real power, especially when the board had to carry out nationally set policies under an Act that was not designed to accommodate Maori interests very easily in a national park model.

In the claimants’ view, their influence through this mechanism was further diluted after 1980, when the park board was replaced by a regional body with a less direct role in running the park, which became the responsibility of Government departments. We accept that that was the case.

In fact, the main way in which local Maori leaders influenced or contributed to the management of the park before the 1980s appears to have been as unpaid honorary rangers. While that position has since fallen into disuse, there have been some promising on-the-ground initiatives with DOC since it assumed day-to-day management of the park. We are thinking here mostly of the ‘Aniwaniwa model’ introduced in the mid-1990s in that part of the park, where local iwi committees work in partnership with DOC officials. While the claimants hailed this as something of a breakthrough, they were concerned that it had no structural guarantee and depended entirely on local relationships and initiatives of particular DOC staff. The 1998 ministerial inquiry into the Waikaremoana occupation endorsed that concern, finding that the local Maori communities had too little say in the running of a park that had such a dominant influence in their lives. It urged DOC to be innovative in adopting more cooperative, community-based approaches to management of the leased lakebed area and recommended that a formal agreement with tangata whenua be reached about the future approach. The Aniwaniwa model was re-established in 1999 but remains an informal and therefore insecure base on which to build a partnership.

As with our discussion of customary uses and how those have been accommodated (or not) over the years, Maori input to the management of the park has

therefore been mostly ad hoc or informal. Honorary rangers, minority (and not guaranteed) representation on the park board at the discretion of the Minister, and formal consultation about management plans – these are the ways in which policy and legislation have allowed local Maori a say in the running and management of the park. Since 1987, the park has been managed by a Crown agency with a statutory requirement to give effect to Treaty principles when administering its governing Act, a requirement that DOC believes also applies, and which it has met, when administering Te Urewera National Park. As has been explained, we disagree. The overwhelming fact remains, however, that for nearly 150 years before 1987, the Crown was bound by Treaty principles and yet, as will be very clear from our report, the essential context for the creation and management of the national park was a long history of broken promises and Treaty breaches. Though reminded from time to time, Ministers and officials took too little account of this inconvenient history.

For the period before 1987, we find that the Crown did make some efforts to involve local Maori in the decision-making and management of the park, but, within the context of a national park based on principles that took no account of their Treaty rights, those efforts could not meet Treaty standards. As we see it, it was clear to Ministers and officials that Te Urewera was a unique case. No other national park had Maori communities living inside it. The restriction of their role to honorary rangers and an informal, minority representation on the decision-making body was very far from being a fair or adequate recognition of their mana motuhake or their Treaty right to self-government. If Pakeha settlements had likewise been made into enclaves or buffer zones in a national park, they would not have tolerated either the lack of compensating benefits or such a small say in the running of its affairs. Others were predominant on the park board. Others were predominant in the park's day-to-day management. Tuhoe lived there.

Thus, the Crown had effectively established a unique system of 'local government' in Te Urewera which was not elected and in which the local residents had no rights of representation. This situation was unique to Te Urewera, as no other national park had residents to be thus excluded from local self-government. Technically, of course, private Maori land is not subject to this unelected government but in reality, we say, it has been in many respects.

In more recent times, the system of 'local government' that prevails in the park and the adjacent lands caught up in its sway, has become more open to Maori involvement. In particular, the Aniwaniwa model is promising, but it is neither secure nor sufficient, including in its coverage of land in and bordering the park. There has also been formal and informal consultation on management plans but, broadly speaking, the evidence supports the claimants' contention that they have been one group of submitters among many. They have not been decision-makers; the cultural harvest arrangements in Aniwaniwa are the closest that local people have been allowed to get to shared control of any issue. This falls short of the principle of partnership. We agree with the Wai 262 Tribunal that the Treaty requires partnership institutions in general, and a consideration of local circumstances to determine whether kaitiaki should have (a) sole control, (b) joint control with the

Crown, or (c) merely influence over the decisions that are made. We also note that Tribunal's statement that title-return and joint management arrangements have been carried out successfully for national parks in Australia, and could also be carried out here in appropriate situations.¹¹⁴⁶ We can think of no more appropriate situation than that of Te Urewera National Park.

1146. Waitangi Tribunal, *Ko Aotearoa Tenei, Te Taumata Tuatahi*, pp 143–145

CHAPTER 17

I PAKU AI TE PU KI MAUNGAPOHATU – RUA KENANA AND THE POLICE INVASION OF MAUNGAPOHATU

Ka hoki whakamuri aku mahara ki aku matua ki aku whaea aku kuia koroua kai te rongo tonu. Ka kite tonu ahau i whakaata mai ana i runga i o ratau kanohi i roto i o ratau reo te mamae . . .

Nga taunu nga hahe nga toto hoki o o ratou whanaunga i maringi ai ki Maungapohatu i paku ai te pu ki Maungapohatu i nana ko te kawanatanga kia wetohia koe ki te ahi i tahuna mai ai ite wa i moe ai a Te Maunga raua ko Hinepukohurangi takanoa mai ki tenei ra. E mura tonu nei. E tutakitakihia atu nei e nga whakatipuranga.

My memories return to my elders, to my uncles, to my aunts, to my parents, to my grand dames, I still hear them. I hear their cries and their pain of our elders . . .

Blood was shed, your guns were fired at Maungapohatu . . . the Government will never requite the blood that was spilt here at Maungapohatu. You can never extinguish the fire that was started, lit by our ancestors from the time of the union of Te Maunga and Hinepukohurangi unto this day and into the future. You will never ever clear us from our place of standing.

Lenny Mahururangi Te Kaawa¹

17.1 INTRODUCTION

The Tuhoe spiritual leader, Rua Kenana Hepetipa, was a pivotal figure in the changing relationship between the Crown and Tuhoe communities in the early years of the twentieth century. Born in 1869,² the year that Crown forces first entered Te Urewera in pursuit of Te Kooti, he later founded a strong community at Maungapohatu, in fulfilment of Te Kooti's prophecy that another leader would guide the Tuhoe people to salvation. As we explained earlier in this report, Rua's vision for Tuhoe economic development relied upon the alienation of interests in

1. Lenny Mahururangi Te Kaawa, oral submission (simultaneous interpretation by Rangi McGarvey), hearing week 11, 21 February 2005

2. There is some doubt about the date of Rua's birth, which is variously given as late 1868 and the beginning of 1869, but most sources agree on early 1869: Judith Binney, 'Rua Kenana Hepetipa', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/3r32/1>, last modified 4 July 2012.



James McDonald (ATU, 1/2-019618-F)

Rua Kenana, 1908. Rua's spiritual leadership offered hope to many Maori, both within Te Urewera and beyond, beleaguered by land loss and political and socioeconomic marginalisation. Rua drew heavily on the Old Testament in his teachings, identifying Maori as dispossessed Israelites and himself as Moses and the messiah, who would lead his people to salvation. However, Rua's faith healing, his early prophecies, and his establishment of a 'new Jerusalem' far inland at Maungapohatu with a large number of his followers alarmed Pakeha and Maori politicians.

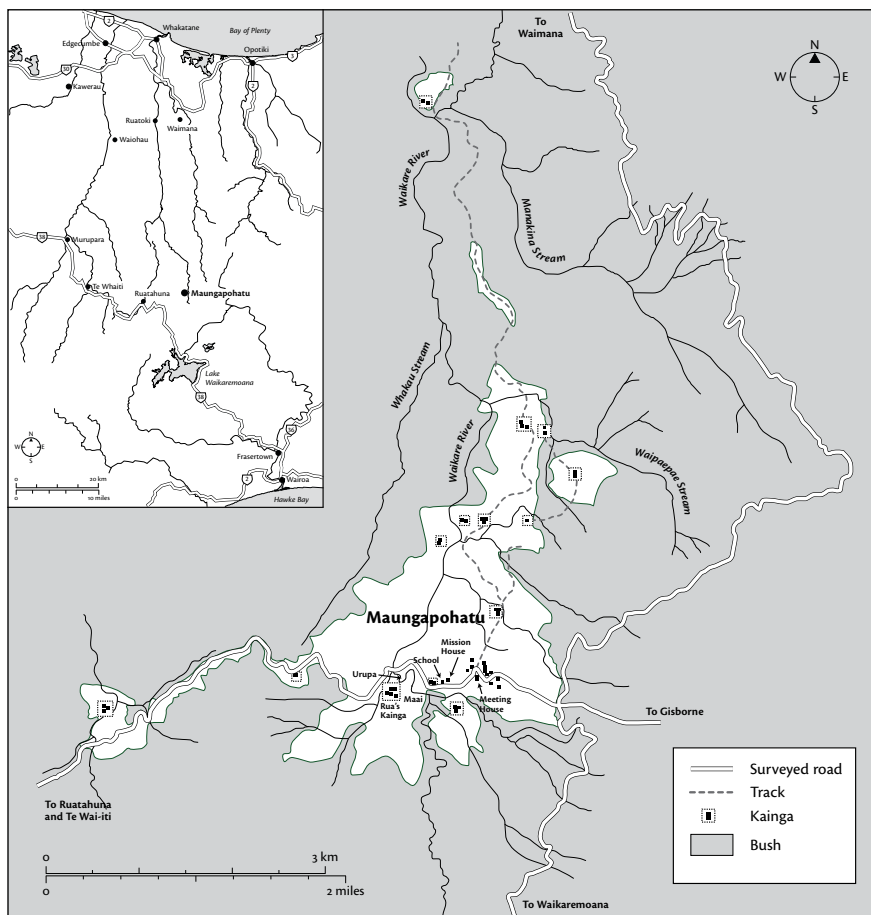
Urewera District Native Reserve (UDNR) blocks, which he saw as the only hope of funding development. This would bring him into conflict with those such as the Tuhoe leader Numia Kereru who had negotiated the Reserve's protected status. We have shown that the Crown had failed to ensure the timely establishment of the General Committee, crucial to self-government in Te Urewera – long sought after by Tuhoe, and enshrined in the UDNR Act 1896. The time for its successful establishment had virtually passed by 1908, when the Crown finally took an interest

for its own reasons, namely providing for European settlement and gold mining. Rua's offer to sell land in 1908, and the Crown's handling of that offer to ensure that the General Committee would consent to it, would both play their parts in the ultimate downfall of the Committee. Events quickly overtook even Rua himself, as the Crown reverted to its discredited system of purchasing interests from individual Maori. Rua – no less than other Tuhoe leaders – had sought the recognition of mana motuhake, even if he had taken a different path to its achievement. From 1916, when legislation was passed allowing purchases that bypassed the General Committee, Crown purchasing proceeded at an unrelenting pace, outside the control of all Tuhoe leaders, including Rua.

The escalation of aggressive purchasing in Te Urewera coincided with the return of Crown forces to Maungapohatu for the first time since the peace agreement that resulted in the establishment of Tuhoe's governing council, Te Whitu Tekau, in 1872, and the beginnings of their relationship with the Crown. On 2 April 1916, three contingents of armed police, led by the police commissioner, John Cullen, were dispatched to Maungapohatu in a military-style expedition. Their purpose was to arrest Rua under a warrant committing him to prison for liquor offences of which he had been convicted in 1915. As with earlier convictions he had for liquor offences, the circumstances of Rua's sentencing were not straightforward. Believing he had already served the sentence for the 1915 convictions, Rua had, in February 1916, refused to comply with a summons to attend court to be sentenced. Thus a decision was taken to send 70 police officers to Maungapohatu to arrest him. As the main contingent arrived, an exchange of gunfire took place. Two Maori were killed, including Rua's son Toko Rua; three more men were wounded. Four police were also wounded. Rua was arrested, along with five other Maungapohatu men. All but one of the charges against him were dismissed, in a trial that was the longest in New Zealand's legal history until 1977. The legal costs were a significant financial drain on the Maungapohatu community.

These events constitute one of the most enduring grievances raised by Tuhoe claimants before us. In their view, the police action taken at Maungapohatu in 1916 was an unjustified invasion, carried out with excessive force, the culmination of a decade of hostility shown to Rua and the Maungapohatu community. Rua, they submitted, had been subject to coordinated and sustained persecution by Ministers, police, and court officials, when his only offence was to object to liquor laws that discriminated against Maori. The Crown's response, in deciding to send an armed police force, was out of all proportion; that force was untrained, and it ignored tikanga in its approach to Maungapohatu, thus unnecessarily escalating tension. The gunfire that ensued was the inevitable outcome. The claimants also alleged that two of the men killed was summarily executed by police, and that police raped women, stole and confiscated property, and fabricated evidence. It is further claimed that the Crown refused to provide financial aid to the community to offset the costs of the trial of Rua and five of his followers.

During our hearings, the Crown made a series of significant concessions on the decision to send an armed police force to Maungapohatu and the subsequent conduct of Rua's arrest:



Rua's community at Maungapohatu

- ▶ The police action taken was an action of the Crown.³
- ▶ The 'decision to send a large armed force to Maungapohatu to arrest Rua appears to have been out of proportion to the threat that he and his followers represented', as he had 'no history of violence'.⁴
- ▶ The action was conducted incompetently, putting the Maungapohatu community at risk; 'excessive force' was used in Rua's arrest; the execution of the arrest on a Sunday was illegal at the time; and 'the consequences of the lengthy trial that followed caused hardship for the community at Maungapohatu'.⁵

3. Crown counsel, final statement of response, 11 June 2003 (statement 1.3.2), sec A, pt 2, pp A321, A322

4. Crown counsel, closing submissions, June 2005 (doc N20), topic 17, p 8

5. Ibid, pp 2, 9

- ▶ The Crown ‘breached the principles of the Treaty of Waitangi by not acting in a reasonable manner towards the Maungapohatu community in the actions that were taken in the arrest of Rua Kenana’. The action taken by the police was conducted ‘in an extreme manner.’⁶

The Crown also agreed that the magistrate’s calling up Rua for sentence on earlier convictions without further wrongdoing on his part was a ‘serious issue.’⁷ But it denied the suggestion that Ministers influenced the magistrate’s conduct, or that Rua had been subject to sustained harassment by the Crown. Counsel further maintained that the police ‘had the right to arrest Rua in 1916’, and therefore in order to maintain the rule of law some kind of action by the State was required. What took place was a ‘police expedition’, not an ‘invasion’. While the Crown has conceded that excessive force was used in the arrest of Rua, counsel also submitted that the context of the First World War needs greater emphasis ‘in terms of understanding the environment in which the events escalated to the extent of the police being dispatched to Maungapohatu to enforce the law.’⁸ The Crown also denied a number of other allegations made in relation to the police action.

Despite many points of agreement between the parties on the issues in respect of the police action, the Crown did not address one of the claimants’ core grievances. From their point of view, the arrest of Rua by force was merely another attempt to break Tuhoe mana motuhake, as it both repeated and extended earlier acts of Crown aggression.⁹ At our Maungapohatu hearing, the people told us in vivid terms of how Te Kooti’s search for shelter in Te Urewera from 1869 marked the beginning of their unhappy relationship with the Crown. They deeply resented the occupation of Maungapohatu by Crown forces under the command of Major Rapata Wahawaha, who constructed a redoubt which they saw as a symbol of the Crown’s wish to conquer Tuhoe (see chapter 5). Yet Tuhoe leaders successfully secured the withdrawal of these troops from Te Urewera in 1871, establishing a peace agreement which they believed would allow them to retain authority over their lands. The essence of this agreement was later formalised in the creation of the Urewera District Native Reserve. In the long run, however, the Reserve’s promise did not eventuate, even though the parties entered into a fully fledged Treaty relationship in 1896 with considerable enthusiasm. The events outlined in this chapter, therefore, should be seen in the context of events we have already considered in our report: war, the defeat of Tuhoe’s self-governing aspirations, and large-scale land alienation.

17.2 ISSUES FOR TRIBUNAL DETERMINATION

The Crown’s concessions mean that we are not required to establish whether the essential nature of the police action taken was unreasonable or excessive. The

6. Ibid, p2

7. Ibid, p7

8. Ibid, pp 2-3

9. Counsel for Nga Rauru o Nga Potiki, closing submissions, 3 June 2005 (doc N14), pp308, 310

Crown has acknowledged significant Treaty breaches in respect of its actions. Yet differences between the parties remain, particularly in respect of the Crown's involvement in the charges laid against and sentences imposed on Rua, whether there were alternatives to his arrest by an armed police force, and a series of specific allegations in relation to the police actions at Maungapohatu – namely, that police raped women and stole possessions, and that at least one of the two Maori killed was murdered.

In our analysis of these issues, therefore, we have asked three questions:

- ▶ Did the Crown's attitude to Rua Kenana's leadership of the Maungapohatu community have any influence on the charges laid against Rua between 1911 and January 1916, and their outcome?
- ▶ Why did the Crown send a large armed police force to arrest Rua, and was this action justified?
- ▶ Did the police behave fairly and reasonably at Maungapohatu?

Our Treaty analysis and findings are followed by our consideration of the extent to which Rua and the Maungapohatu community were prejudiced as a result of these events.

In the 1960s and 1970s, two researchers, Judith Binney and Peter Webster, independently interviewed some of the surviving (Maori and Pakeha) witnesses to the events of 1916. Their respective books on Rua Kenana and the fate of his community, both published in 1979, have been key sources for us. We also received substantial evidence from the people at Maungapohatu during our three-day hearing there.

Despite the range of sources available, there are certain matters on which disagreement has persisted over time. In part, this is because events at Te Waiiti and Maungapohatu in 1916 were the subject of heavily contested evidence and cross-examination in a high profile and long-running criminal trial, for which a considerable number of important documents are unavailable. Almost a century later, it has proved difficult for the Tribunal to shed further light on some of these events.

We note here that we are not looking at issues related to Rua's trial and the subsequent perjury trials, except insofar as evidence given during those trials bears upon the police action and its causes. This is because trials are judicial proceedings and not acts or omissions of the Crown.

17.3 KEY FACTS

Rua Kenana was a significant, influential, and at times controversial Tuhoe leader in the early years of the twentieth century. His prophecies, charismatic preaching, and vision of a future in which his people were politically and economically independent attracted a large and devoted following, which extended beyond Tuhoe. Rua's radical teachings, his striking appearance, and the fact that he was known to have a number of wives, also brought him to the attention of journalists, as did the innovative architecture of Maungapohatu with its remarkable round meeting house called Hiona (Zion), decorated with a design of blue clubs and yellow

diamonds. For these reasons the police raid on Maungapohatu and the arrest, trial, and imprisonment of Rua attracted widespread publicity.

Rua first came to the attention of the wider New Zealand public in 1906. Up until that time, he had been known as a faith healer and prophet, and was sought out by Maori and Pakeha. But it was his 1906 prophecy that King Edward VII of England would meet him at Gisborne which gained him a large following among Maori in the region, and drew the nation's attention. He foretold that the King would give him the money to purchase back all alienated Maori land. The number of Maori who followed Rua to Gisborne demonstrated his significant support and established his standing as a visionary leader. Later that year, he was baptised as Te Mihaia Hou – the New Messiah – by the influential Ringatu tohunga, Eria Raukura. As he gathered more followers, Rua attracted increased attention, including police observation of his activities. In June 1907, he founded a new community at Maungapohatu, consciously recreating a new Jerusalem, and in the following months more people (including both Tuhoe and Whakatohea) joined him. A number of buildings, including a courthouse, bank, store, and council room, were constructed. About 500 to 600 people lived there in the early years. Rua took 12 wives, who came from different hapu of Tuhoe, his purpose being to 'unite each part of the people to him'.¹⁰ In 1907, the Government passed the Tohunga Suppression Act, which included a number of provisions designed to limit the activities of tohunga. In parliamentary debates about the Act, members were critical of Rua and the extent of his influence.

In 1908, Rua's rumoured meeting with representatives of the Waihi Gold Mining Company about possible prospecting in the Reserve lands gained him further attention from officials, as well as from other Tuhoe leaders engaged in establishing the General Committee of the UDNR (see chapter 13). Prime Minister Joseph Ward invited Rua to meet him at Whakatane – an encounter that Rua later described as a 'ceremony of union'. Ward told him that there could only be one government and one king as 'there can't be two suns shining in the sky at one time'.¹¹ Following the meeting, Rua adopted as his emblem a flag named Maungapohatu that had been Tutakangahau's, which he had acquired after the negotiations that led to the passing of the UDNR Act. It bore the Union Jack, stitched with the words 'Kotahi Te Ture mo Nga Iwi e Rua' (One Law for Both Peoples) – that is, legal equality for Maori and Pakeha.¹²

In March 1908, a hui was held at Ruatoki to elect the General Committee. Rua was not among those elected, but it was agreed he would visit Wellington to discuss his proposals for the Reserve lands with the Native Minister, James

10. Judith Binney, Gillian Chaplin, and Craig Wallace, *Mihaia: The Prophet Rua Kenana and His Community at Maungapohatu* (Auckland: Auckland University Press and Bridget Williams Books, 1990) (doc A112), p 57

11. 'Premier and "Prophet"', *New Zealand Herald*, 24 March 1908, p 6 (Judith Binney, 'Encircled Lands, Part 2: A History of the Urewera, 1878–1912' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A15), pp 387–388)

12. Binney, 'Encircled Lands, Part 2' (doc A15), pp 254–255



Unknown (A.T.U. 1/2-110405-F)

Rua Kenana and four of his wives, Opotiki, circa 1908. Clockwise from top left: Te Akakura, Waereti, Kiha, Rua, and Te Aue. Rua had 12 wives, drawn from different hapu of Tuhoë to unite each of them to him.

Carroll. Unlike the proposals of Numia Kereru and other members of the General Committee, Rua favoured the sale of land. He asked for the creation of a reserve at Maungapohatu, consisting of 20,000 acres that his followers had gifted to him in 1907. In November 1908, he offered to sell 100,000 acres to the Crown (he claimed to have a petition of nearly 1,400 signatures in support of this sale). The money raised from the sale would provide development capital for the Maungapohatu community, and help develop the Reserve for farming. As we explained in chapter 13, the Crown then moved to initiate land purchases in the Reserve, and secured

changes to the composition of the General Committee, increasing the total membership to 34, providing representation for a sizeable number of Rua's supporters (as 'consultative' members).

In May 1910, after the UDNR Act was amended, Rua was appointed to full membership of the General Committee, along with several of his supporters. He immediately renewed his offer to sell land in the Maungapohatu and Tauranga blocks. This resulted in the sale of 40,000 acres in mid-1910 – the first Crown land purchase in the Reserve. The General Committee continued to consent to the sale of the interests that were offered, as the Government embarked on a programme of purchase which lasted until its funds were largely expended by the end of year. After this it bought only a handful of further shares, though it did not formally suspend purchase until 1912, citing the need to await the outcome of final appeals from Urewera commission title orders. Purchasing was not resumed until 1915, following the re-election of the Reform Government in 1914. In this second phase, purchases were made directly from individual Maori, and the General Committee was completely bypassed. The Committee did not meet between 1910 and 1913, and met only once thereafter. In 1916, the Government legalised purchase from individual Reserve block owners by amendment to the UDNR Act. The Crown subsequently purchased on a massive scale in most Reserve blocks until 1921.

Rua's first encounter with the law came amid these transactions over Reserve lands. Though he had not permitted smoking and drinking in his community, the restriction of alcohol proved increasingly difficult to enforce. Rua therefore began to supply liquor to followers himself, though this was illegal. He made inquiries about getting a licence, but to little effect. Te Urewera was in the Waikaremoana Native Licensing District, in which the supply of alcohol to Maori was illegal until 1910, and after 1910 lawful only in licensed premises. There were, however, no licensed premises in the native district and the licensing laws capped, at the existing level, the number of licences that could be issued in a district. This, in effect, made it impossible for Rua to obtain a licence. Rua's liquor sales came to the attention of the police, who arrested him at Waimana on 10 January 1911. His first appearance before Magistrate Robert Dyer at Whakatane took place on 21 February. He faced five charges of 'sly-grog selling' (selling liquor without a licence) and was convicted on all five charges. On four of the charges he was fined a total of £100 plus costs, which he paid on the spot. On the fifth charge no sentence was passed, but Rua was ordered to come up for sentence if called upon, and the magistrate warned him that 'unless he behaved himself (not only in regard to sly-grog selling, but in other respects)' he would be sent to gaol; the police need only report his 'misbehaviour'.¹³

Rua stayed clear of the legal authorities for the next four years, a period in which his community underwent a number of changes. In 1913, the Auckland district health officer singled out Rua for special mention for his cooperation in supporting vaccination during the 1913 smallpox epidemic. However, the outbreak of the

13. 'Rua's Grog Shop', *Poverty Bay Herald*, 28 February 1911, p 5 (Brent Parker, comp, supporting papers relating to Rua Kenana, 2 vols, various dates (doc J5(a)), vol 2, p 551)

First World War brought less favourable public attention for Rua. His opposition to Tuhoe recruitment and some of his alleged statements led to rumours that he supported the German war effort.

In May 1915, Rua ran into further trouble with the authorities over liquor laws, appearing before Dyer a second time on five new liquor charges. He was convicted on these charges and, again, ordered to come up for sentence if called upon. But the magistrate also imposed a three-month prison term with hard labour for the final previous conviction in 1911. Thus, Rua was sent to gaol for the charge laid against him in 1911, not the new 1915 convictions. Rua served his prison sentence and returned to Maungapohatu in August 1915.

In January 1916, Rua was summoned to appear before Dyer for sentence on his 1915 convictions. The notice was delivered by a Maori constable on 19 January. Rua asked the constable to write a note on his behalf saying that he was busy with harvesting and requested an adjournment until the next court session. Dyer treated Rua's request as contempt of court. On 22 January, he sentenced Rua in absentia to a cumulative three months in gaol with hard labour on three charges and imposed fines for the remaining two. Two days later, at a hui held at Matahi, Tuhoe leaders Paora Kingi and Te Iwikino drew up a petition to the Prime Minister (signed by 29 of Rua's followers), strongly protesting against Rua's repeated prosecution for the same offences. The Matahi hui fuelled rumours that a bodyguard had been formed to protect Rua.

Warrants were issued for Rua's arrest so he could serve this new prison sentence and pay his fines; if he failed to pay he would be liable for further gaol terms amounting to six months.¹⁴ On 11 February 1916, two police officers, Constable Andy Grant and Sergeant Denis Cummings, went to arrest Rua at Te Waiiti (a small kainga near Ruatahuna), where Rua had gone for the lifting of a tapu. Although various contested accounts of events that day were given, Rua was said to have uttered pro-German statements. Maori witnesses denied the war was ever mentioned. Rua was, in any case, unwilling to serve another gaol term or pay the fines owing. He believed he had already served his prison term for the 1915 offences, and told the police officers as much. The officers did not attempt to use physical force to effect the arrest, and they returned to Whakatane without him. Much later, after the police expedition to arrest him at Maungapohatu in April 1916, Rua faced additional charges of resisting and obstructing police and making seditious statements at Te Waiiti, based on the reports of Grant and Cummings of their meeting with him.

After the failed attempt to arrest Rua at Te Waiiti, Apirana Ngata, the member of Parliament for Eastern Maori, was asked by the Government to play a mediating role. He travelled first to Maungapohatu to try to persuade Rua to give himself up, and then (on 11 March) to Wellington to speak with Police Minister Alexander Herdman. They agreed that Rua be offered a reduced sentence if he gave himself up to Herdman. Letters were sent to Rua, and Herdman then travelled to

14. Deposition of Constable Timothy James Cummings, no date (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, pp 230–234)

Ruatahuna in anticipation of Rua's surrender. His second letter warned Rua that the Government would 'take immediate steps to have the law enforced'.¹⁵ When Rua failed to appear at Ruatahuna, preparations for a major police operation – which Police Commissioner John Cullen already had under way – were stepped up.

The expedition was headed by Commissioner Cullen himself. Three contingents of armed police, totalling 70 officers, converged on Maungapohatu on 2 April 1916. The first two contingents were small, and Rua offered no resistance, greeting them cordially and offering refreshment. Rua asked one of the officers to arrange a meeting with Cullen before the third, larger contingent arrived. Upon his arrival, Cullen ignored this request and instead rode directly onto the marae. As his men arrested Rua, a single shot rang out, and an exchange of gunfire then took place. It left Rua's son Toko Rua, and another young man, Te Maipi, dead. Three other men and four police were also wounded. The police occupied Maungapohatu for three days, until one of their injured men had recovered sufficiently for the journey out. Thirty-one of the 48 men of Maungapohatu were detained, although most were released within a day. There is varying evidence as to the extent to which the activities of the women of Maungapohatu were disrupted by the police occupation – police denied the women were forcibly detained, but Rua's wives were rounded up by armed police after the shooting; they were distressed and complained that they were left without bedding or clean clothes. When the police departed on 5 April they took with them Rua and five other prisoners, Tioke, Maka, Pukepuke, Awa, and Whatu, who were arrested for resisting the police, and taken to Auckland for trial.

Rua initially faced eight charges. Two related to the events of 12 February when Grant and Cummings met with Rua at Te Waiiti. The remaining six charges related to the events of 2 April at Maungapohatu, including five 'counselling' charges relating to claims about Rua's words to his followers as he was being arrested.¹⁶ The eight charges, in full, were:

- ▶ resisting and obstructing the police, and using seditious language (two charges arising from the events at Te Waiiti); and
- ▶ counselling 'natives' to murder members of the police force;
- ▶ counselling 'several natives to discharge loaded firearms with intent to prevent his apprehension';
- ▶ 'counselling to wound or to do actual bodily harm to resist apprehension';
- ▶ 'counselling to assault and resist the police in the execution of their duty';
- ▶ 'counselling to do actual bodily harm'; and
- ▶ 'assaulting police constables in the execution of their duty'.¹⁷

Rua pleaded not guilty to all eight charges. In what became the longest trial in New Zealand history before 1977, lasting 47 days, only one charge was eventually

15. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 89

16. *Ibid*, p 111

17. Peter Webster, *Rua and the Maori Millennium* (Wellington: Victoria University Press, 1979) (doc k1), p 261

upheld, that of resisting arrest at Te Waiiti in February 1916. Even then, the jury came out on 2 August 1916 with a watered-down verdict of 'guilty of moral resistance'. Of the remaining charges, Justice Frederick Chapman threw out four relating to the events at Maungapohatu on the grounds that it was illegal to serve warrants for commitment to prison on a Sunday. The jury found Rua not guilty of using seditious language and was unable to reach a verdict on the remaining two charges relating to the events at Maungapohatu, namely counselling to commit murder and counselling to commit grievous bodily harm. Charges against the other five men arrested either failed or were withdrawn. When Chapman sentenced Rua to two and a half years in prison, eight members of the jury protested against the severity of the sentence in a letter to the *Auckland Star*. In the end, Rua was released after 18 months.

The Crown also took perjury proceedings against six defence witnesses in relation to the issue of who fired the first shot at Maungapohatu. Two witnesses, Tori Biddle and Mahia Hakeke, were convicted after pleading guilty and were sentenced to nine months imprisonment each, one witness was acquitted, and charges against the rest were dropped. The legal proceedings, particularly the trial of Rua, imposed crippling costs on the Maungapohatu community; Jerry Lundon, Rua's defence counsel, charged 500 guineas for his services. A petition was sent to Prime Minister William Massey for assistance, to which the Minister of Native Affairs William Herries responded unsympathetically.

Rua was released from gaol in April 1918. By then, many people had left Maungapohatu; a number had in fact left before 1916, to seek employment. The village was reconfigured after Rua returned. Services continued, and the new Presbyterian minister, the Reverend John Laughton, opened a school at Maungapohatu. In 1919, a new meeting house was built at Maai. In the wake of the influenza epidemic, Rua moved with his family to the Waimana Valley, first to Tawhana, then to Matahi. By 1921, there were about 200 people at Matahi, and the Presbyterian mission opened a school there. In 1927, Maungapohatu was rebuilt, and briefly flourished for the next few years. Following bad winters, however, people began to leave, and Rua moved to the Waimana Valley in 1933. He passed away on 20 February 1937. By 1950, only two or three families remained at Maungapohatu.

17.4 THE ESSENCE OF THE DIFFERENCE BETWEEN THE PARTIES

17.4.1 Did the Crown's attitude to Rua Kenana's leadership of the Maungapohatu community have any influence on the charges laid against Rua between 1911 and January 1916, and their outcome?

The parties disagreed over the extent of Crown responsibility for the way in which charges were laid against Rua between 1911 and January 1916, and whether these charges resulted from an increasing antagonism on the part of the Crown towards Rua's leadership. The claimants painted a picture of sustained Crown hostility, beginning with police monitoring in 1906 and the apparent targeting of Rua through the Tohunga Suppression Act the following year. Rua, they said, had a

legitimate grievance in complaining that the liquor laws, which discriminated against Maori, did not honour the principle of *kotahi te ture, mo nga iwi e rua* (one law for both peoples), which Rua felt had underpinned his meeting with Prime Minister Ward at Whakatane in 1908. The claimants said the Crown would not issue Rua a liquor licence, which he believed he needed in order to counteract the illegal underground purchase and consumption of alcohol by members of his community at Waimana. They said that Rua was actively pursued by the authorities for selling alcohol in defiance of the law, and that the three-month gaol term he received in 1915 relation to what they called a ‘suspended sentence’¹⁸ for previous liquor law violations was ‘excessive’. The claimants further stated that the suspension of sentences for five further liquor-related convictions in 1915 ‘was intended to ensure the Crown had a hold over Rua’, and that the imposition of those sentences after Rua’s release from gaol later in 1915 was at the insistence of Native Minister William Herries, not the police. They contended that the Crown’s hostility towards Rua ‘was no accidental or incidental outcome of a policy to ensure the proper enforcement of the liquor licensing laws’, but rather was directed at persecuting him, and suppressing his religious movement.¹⁹

The Crown rejected the proposition that ‘there was a Crown conspiracy against Rua.’²⁰ Crown counsel acknowledged that Rua was singled out by politicians as the kind of *tohunga* that the *Tohunga Suppression Act* was passed to contain, but denied that Rua was ever threatened with prosecution under the Act. Furthermore, the Crown painted a positive picture of the relationship between Rua and the Government in the period 1908–10, when Ministers supported Rua’s endeavours to develop land around Maungapohatu and acted as a mediator in his disputes with other Tuhoe leaders, such as Numia Kereru.²¹ In the Crown’s view, it was only Rua’s opposition to Tuhoe recruitment in the First World War, along with consequent rumours of disloyalty, which resulted in a deteriorating relationship in the year leading up to the invasion.²² The Crown strongly rebutted claims that Herries interfered in the judicial process in 1915, although it admitted that the revival of ‘suspended sentences’ against Rua was a ‘serious issue.’²³

17.4.2 Why did the Crown send a large armed police force to arrest Rua and was this action justified?

The parties were substantially in agreement on the question of whether the decision to send an armed police force to arrest Rua was appropriate. While they agreed that the level of force contemplated was inappropriate in the circumstances,

18. Claimants and the Crown used the (technically inaccurate) term ‘suspended sentence’ to refer to the magistrate’s decision to convict Rua and order him to come up for sentence if called upon. The magistrate used this form of sentence for one of Rua’s 1911 convictions and all five of his 1915 convictions.

19. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 310–315

20. Crown counsel, closing submissions (doc N20), topic 17, p 2

21. *Ibid*, pp 4–5

22. *Ibid*, p 8

23. *Ibid*, pp 6–7

the parties differed on the motivations and intentions behind the Crown's decision to send an armed expedition to Maungapohatu. Claimants contended that while the Minister of Police Alexander Herdman and Police Commissioner John Cullen worked 'closely together' in deciding the nature of the police response, the expedition itself was planned primarily by Cullen, who – with a track record of heavy-handed conduct, and seeking glory before he retired later in 1916 – 'anticipated the conflict he would create at Maungapohatu'. The nature of this planning, claimant counsel submitted, suggested that 'the Crown not only expected, but actually intended the violence against and the subordination of the Maungapohatu community that eventuated'.²⁴

Crown counsel maintained that the Crown was within its rights to arrest Rua for his defiance of the law. Counsel also pointed to factors which contributed to the escalation of events, resulting in the dispatch of an armed police force, including the petition from Tuhoe leaders warning that 'a gun will be fired' and the atmosphere of 'war hysteria'. 'The Crown clearly perceived Rua as a considerable threat.'²⁵ For this reason, Crown counsel rejected the term 'invasion' to describe the police force sent to Maungapohatu, preferring the term 'police expedition'.²⁶ Yet, as noted above, Crown counsel conceded that Rua had 'no history of violence', and that its decision to send a large armed force to Maungapohatu to arrest Rua 'appears to have been out of proportion', both to the threat that he and his followers represented, and the seriousness of the liquor charges for which he was arrested.²⁷

17.4.3 Did the police behave fairly and reasonably at Maungapohatu?

The parties were also in agreement that the police used 'excessive force' in arresting Rua at Maungapohatu, and that the execution of the arrest on a Sunday made it unlawful at the time. They further agreed that Rua instructed his people not to resist, even when Cullen broke tikanga in his approach to the marae.²⁸ The police force, the Crown conceded, was not well trained, and was unable to provide 'a unified and coordinated response to the situation' when gunfire broke out.²⁹ Yet while the parties concurred that the overall manner of Crown action was unreasonable, they did not agree on several critical aspects of police behaviour during the fighting at Maungapohatu and in its aftermath. Claimants maintained that police murdered two Maori men, who were said to have been pursued by police and shot; Rua's son, Toko Rua, was said to have been shot and killed, despite being unarmed and already seriously wounded. Claimants also submitted that a waiata composed by Rua while in prison, 'Taura Whiu Kau', provides vivid evidence of the rape of Maungapohatu women by police officers. Finally, claimants contended

24. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 316–317

25. Crown counsel, closing submissions (doc N20), topic 17, p 8

26. Crown counsel, final statement of response (statement 1.3.2), sec T, pt 2, p T87

27. Crown counsel, closing submissions (doc N20), topic 17, p 8

28. *Ibid*, pp 8–9; counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 318–321

29. Crown counsel, closing submissions (doc N20), topic 17, pp 8–9

that the police stole property from the Maungapohatu community, ‘including large amounts of cash, jewellery, and many pounamu taonga.’³⁰

In response to the claim that Toko Rua was murdered, Crown counsel submitted that the ‘evidence given at the subsequent trial was contested’, and that the coroner was unable to give a verdict because he did not have access to the bodies. Counsel denied allegations that police raped women in the days after the occupation of the marae based on a lack of documentary evidence.³¹ The Crown did not respond to allegations of theft on the grounds of insufficient information.³²

17.5 DID THE CROWN’S ATTITUDE TO RUA KENANA’S LEADERSHIP OF THE MAUNGAPOHATU COMMUNITY HAVE ANY INFLUENCE ON THE CHARGES LAID AGAINST RUA BETWEEN 1911 AND JANUARY 1916 AND ON THEIR OUTCOME?

SUMMARY ANSWER: The Crown was hostile towards Rua in the early months of 1916, as it had been a decade earlier when he first came to prominence. Rua’s millennial prophecies, his widespread influence in the Bay of Plenty and Poverty Bay regions, and his founding of a biblical settlement at Maungapohatu based on his radical teachings gained him national attention from 1906, and also aroused considerable suspicion in Government circles. His leadership was cited by members of Parliament in support of the passing of the Tohunga Suppression Act 1907 – an Act that, although significantly flawed, was intended to deal with widespread Maori health problems at the time. That suspicion, however, was succeeded by tolerance and even recognition of Rua’s leadership, alongside that of the established Tuhoe leadership, in the years 1908–10, when the Crown was anxious to open Te Urewera to settlement and to prospecting and gold mining. Very belatedly, it moved to secure the establishment of the General Committee, which under the UDNR Act 1896 was the only body that could transact land alienations and consent to mining. And it took active steps to ensure that Rua, who was known to wish to sell some land – hoping to raise capital for farming development – was able to secure a seat on the General Committee. The established tribal leadership had not been anxious to see Rua as a member of the Committee, but the UDNR Act 1896 was amended to provide for Crown appointment of members, rather than their election by komiti hapu. In the wake of the Government’s decision to suspend purchasing from the General Committee at the end of 1910, Rua seems not to have had a continuing relationship with it. The Reform Party Government, which came to power in 1912, chose to ignore the UDNR Act’s requirement that the Crown deal only with the General Committee, and from 1915 began aggressively purchasing land interests in the UDNR from individual block owners. Rua, like other Tuhoe leaders, was no longer needed by the Government.

30. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), pp 318–321

31. Crown counsel, closing submissions (doc N20), topic 17, p 9

32. Crown counsel, final statement of response (statement 1.3.2), sec T, pt 2, p T95

In 1911, Rua was arrested for offences against liquor laws. There had long been separate provisions for the supply of liquor to Maori, but the Licensing Amendment Act 1910 meant that Maori were now able to buy alcohol in licensed premises. Maori from Te Urewera could now be served in public houses in nearby Whakatane and Opotiki. Rua's response to this change was to begin illegally supplying liquor to his followers at Waimana, in order, he claimed, to exercise control over alcohol consumption amongst his people. He did make inquiries about getting a licence, but made no progress; the nature of the 1910 law change made it virtually impossible for new licences to be issued in the Waikaremoana Native Licensing District, of which Te Urewera was a part. Yet while Rua's actions highlight what appeared to be discrepancies between how alcohol was controlled in Maori and Pakeha communities, there is no evidence that the laying of charges against him in 1911 was anything other than a routine police matter. He was sentenced in the magistrates court and convicted of five charges, and fined on four; on the fifth charge he was ordered to come up for sentence if called upon.

Rua challenged the liquor laws in court, and it is known that he disliked what he saw as their discriminatory nature. Despite this defiance, he did not attract the attention of the law again until 1915, when he was charged and convicted on five further counts of supplying liquor at a large hui at Maungapohatu, and ordered to come up for sentence if called upon. But he was sent to gaol for three months on the fifth count of his 1911 convictions. Then, in January 1916, he was summoned to appear for sentence on the 1915 convictions. The reasons for his being called up for sentence at this time are not known. Rua did not understand why he was being summoned back to court, and did not appear on the due date; the magistrate sentenced him in his absence to three months' further gaol time, as well as imposing additional fines.

Although Crown counsel, in our inquiry, expressed concern about the court's use of what were referred to as 'suspended sentences', we were not presented with any evidence of Crown involvement in the laying of charges against Rua, or in the use of the sentences. The laying of liquor-related charges in 1911 and 1915 were routine police matters, and the decisions to impose 'suspended sentences' and to call Rua up for sentencing subsequently were actions of the court, not the Crown. But these events nonetheless laid the basis for the attempted arrest of Rua in February 1916 which, as we discuss in the next section, he calmly resisted. By this time, Government Ministers were taking an active interest in the case. The outcome of the failed February arrest would be the Crown's decision to send an armed police expedition to Maungapohatu.

17.5.1 Introduction

The emergence of Rua on the national stage in 1906 attracted the attention of politicians who soon became concerned with limiting the extent of his influence. A decade later, the Crown dispatched a significant armed police force to arrest him in enforcement of a warrant of commitment to prison in relation to earlier convictions on liquor-related charges. The claimants maintained that this action was the culmination of a period of sustained Crown hostility aimed at Rua and his

leadership, stemming from factors that went well beyond his flouting of the liquor laws. Crown counsel submitted that Rua's convictions and sentencing were actions of the courts, not the Crown, and were subject to no interference on the part of Ministers who may have opposed his activities. Counsel suggested moreover that the Crown's perception of Rua was 'complex'. The Prime Minister considered him 'credible enough' to meet him in 1908, and there was a 'constructive relationship' with Ministers of the Crown, evident in ministerial intervention to secure Rua's appointment to the General Committee.³³

In this section, we ask whether the Crown had any role in Rua's initial arrest in 1911, his subsequent arrest in 1915, and his summons for sentence (on 1915 convictions) in January 1916. From this context of Rua's court appearances and convictions, we look ahead to failed police attempts to arrest him at Te Waiti in February 1916 – the immediate origin of the decision to send an armed police force to Maungapohatu. How was Rua perceived by key Ministers and police officials at different times during this period to January 1916? What influence, if any, did their views have on the charges laid against him or the court's use of convictions accompanied by orders that he come up for sentencing if called upon?

17.5.2 Rua's rise to prominence and the Crown's response, 1906–10

Rua had made his initial impression on the wider world as a faith healer and prophet, emerging from relative obscurity in 1906 when he was in his late thirties. Little is known about his earlier life. There is some doubt about the date of his birth, although most sources agree it was in early 1869. He is usually considered to be the posthumous son of Kenana Tumoana who was killed in 1868 while fighting for Te Kooti.³⁴ His mother was Ngahiwi Te Rihi, of the Tamakaimoana hapu of Maungapohatu, where Rua is thought to have been born. For many years he worked as a shearer and ditch-digger for Pakeha farmers, mostly in the Waimana Valley. From about 1904 he began to experience visions from God. In one vision, Christ appeared before him on the sacred mountain of Maungapohatu and led Rua and his wife, Pinepine, to a hidden diamond that lay in a swamp, which would be the means of redemption for his people.³⁵ Many stories have been told about the diamond in several tribal areas. As Binney explained, although these accounts differ in many respects, all concur that the diamond had been hidden by Te Kooti; it was the 'stone of light which holds and preserves the mana of the land and its people.'³⁶

Rua first came to national attention by prophesying that on 25 June 1906 King Edward VII of England would meet him at Gisborne and give him the money to purchase back all lost Maori land.³⁷ In some narratives, Binney stated, Rua car-

33. Crown counsel, closing submissions (doc N20), topic 17, pp 4–5

34. Binney, 'Rua Kenana Hepetipa'; Webster, *Rua and the Maori Millennium* (doc K1), p 155

35. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 18–20

36. Judith Binney, *Redemption Songs: A Life of Te Kooti Arikirangi Te Turuki* (Auckland: Auckland University Press, 1995), pp 506–509

37. Webster, *Rua and the Maori Millennium* (doc K1), p 163. Webster cites several variations on this prophecy.



Unknown (ATL, PA1-P-357-17)

Pinepine Te Rika, Rua's senior wife, with her grandson, Hami Biddle, at the Supreme Court in Auckland during the prophet's trial. Pinepine was the mother of Toko Rua, whom the police had killed during his father's arrest.

ried a large diamond with him to buy back the land, in a 'ritualised exchange'.³⁸ In the Bay of Plenty and Poverty Bay, Maori employed as labourers and farm workers were persuaded by Rua to follow him to Gisborne and wait for King Edward to usher in the millennium.³⁹ Former Government land agent James Mackay felt Rua had overplayed his hand: 'The man is a fool. He has fixed a certain date for the fulfilment of his prophecy, and when that date arrives his mana will depart.'⁴⁰ But Rua had a second reason for travelling to Gisborne. Te Kooti, in his last prophecies, had foretold that the new prophet who would succeed him would be known when he took the people to Gisborne (the home of Te Kooti's own people, Rongowhakaata). Rua was to be that prophet.

Rua left with some 80 prominent Tuhoe supporters, along with some from Ngati Awa.⁴¹ Before he left, he instructed his followers to remove their children from

38. Judith Binney, 'Songlines from Aotearoa', in *Quicksands: Foundational Histories in Australia & Aotearoa New Zealand*, eds Klaus Neumann, Nicholas Thomas, and Hilary Erickson (Sydney: University of New South Wales Press, 1999), p 230

39. Webster, *Rua and the Maori Millennium* (doc K1), p 163. The millennium refers to the thousand-year kingdom of saints foretold in the New Testament. However, the term is generally used to refer to any sudden transforming event predicted to bring salvation to the followers of a religious movement: see Webster, *Rua and the Maori Millennium* (doc K1), pp 48–49.

40. Ibid, p 165

41. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 28

the Waimana Native School and later said there was no need for them to learn English.⁴² He arrived at Pakowhai near Gisborne with a growing band of followers from Te Urewera, Opotiki, Whakatane, Wairoa, and Ruakituri. Other Maori and some Pakeha converged on the Gisborne district out of curiosity. The large number of visitors, and rumours that some were armed, alarmed local settlers. Members of a group who had come from Wairoa allegedly caused trouble when they were refused service at the Patutahi Hotel and police were called, although the alarm was quickly over.⁴³

Despite Mackay's scepticism, Rua's reputation survived the non-arrival of King Edward. After revising the date several times, Rua was claimed, in one version of events, to have said that 'I am really that King . . . here I am with all my people'.⁴⁴ In other words, as Binney explains, he himself offered salvation. And he had now shown he had the support of many of the elders of Tuhoe. As outlined earlier in this report, Te Kooti had close ties with Tuhoe. His faith and prophecies therefore provided a spiritual context for the emergence of a leader such as Rua – though this was little understood by Pakeha. Rua was baptised in the waters of the Waipaoa River by Eria Raukura, the leading tohunga of the Ringatu faith, as Te Mihaia Hou, the New Messiah.⁴⁵ Lenny Mahururangi Te Kaawa, speaking to us at Maungapohatu, said:

Kua whakaputa ke tia nga korero a Tai [Rua] ana tumanakotanga i moemoeahia e ia mo tana iwi, mo tana haahi . . . I puta a Tai i te wa e mamate haere ana te wairua, te hauora o te iwi i muri i nga pakanga ki te kawanatanga i nga whaiwhaitanga i a Te Kooti . . . He pai nga moemoea a 'Tai'[Rua] ki te hiki i te mana te wairua o toona iwi. Ki te hiki, ki te whakaoho i toona iwi kia tu maia ano.⁴⁶

Our elders turned to support Rua, and his dreams and aspirations for his church and his people . . . When Rua became a prophet, the people were in darkness, and his dreams were to elevate the mana and the way the people lived, so that they could live again.⁴⁷

Over the following year Rua gathered more followers for his migration to Maungapohatu. They were subject to occasional suspicion and hostility. The Takitimu Maori Council unsuccessfully attempted to have Rua evicted from their area as a tohunga, and he was under police observation.⁴⁸ Rua and several hundred followers returned to Waimana, and then headed for Maungapohatu in June 1907; more joined him in subsequent months. His revelation of the 'portents of the final

42. Ibid, pp 33–35

43. Webster, *Rua and the Maori Millennium* (doc K1), pp 167–168

44. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 29–30

45. Ibid, p 20

46. Lenny Mahururangi Te Kaawa, brief of evidence, 14 February 2005 (doc K22), p 6

47. Lenny Mahururangi Te Kaawa, oral evidence (simultaneous interpretation by Rangi McGarvey), hearing week 11, 21 February 2005

48. Webster, *Rua and the Maori Millennium* (doc K1), pp 176–178



George Bourne (Auckland War Memorial Museum, PH-1976-6-28)

Maungapohatu, April 1908. The distinctive meeting house Hiona is in the centre right. The extent of felled timber indicates the substantial construction work that had taken place in the village following the influx of Rua's followers in 1907, with about 50 houses having been built.

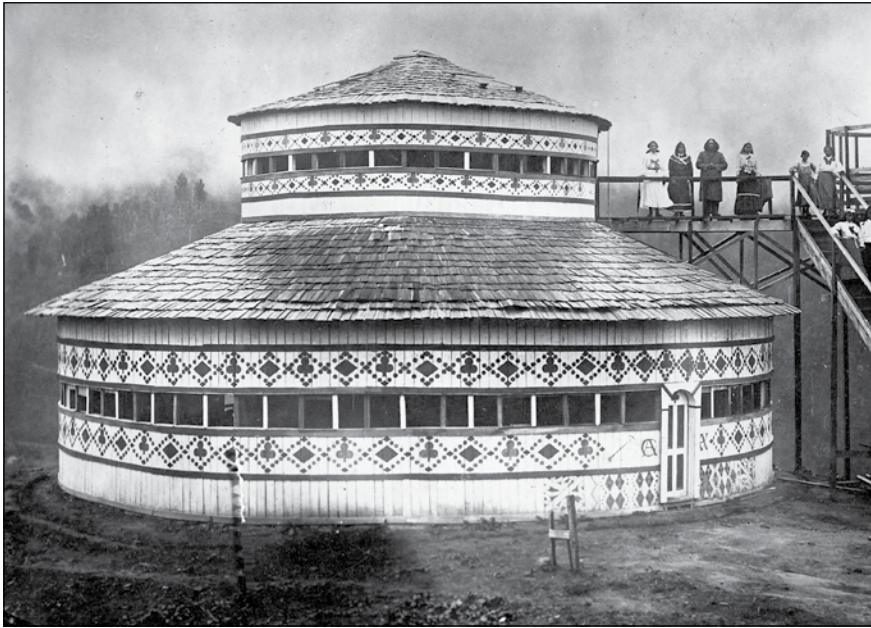
days' – the eruption of White Island, a great earthquake, and a tidal wave which would destroy all who remained in the low-lying Whakatane valleys – appears to have been decisive for many in reinforcing their belief in his visionary leadership.⁴⁹ Many sold their property, and stopped working for wages, in preparation for their move inland. Binney wrote that: 'These early visions of Rua's contained little appeal to European understanding, but his messianic dreams for his people incorporated other more pragmatic and comprehensible schemes.'⁵⁰ He wanted to bring people out of poverty and hardship – following the difficult years of the turn of the century when food crops had been severely affected by a series of frosts, floods, and potato blight – and to make a better life for them by making their remaining land productive through the application of skills and capital.⁵¹

49. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp33–34; Webster, *Rua and the Maori Millennium* (doc K1), pp178–179

50. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p15

51. *Ibid*, pp22–24; Jeffrey Sissons, *Te Waimana: The Spring of Mana – Tuhoe History and the Colonial Encounter* (Dunedin: Otago University Press, 1911) (doc B23), pp186–188; Anita Miles, *Te Urewera*, Waitangi Tribunal Rangahaua Whanui Series (Wellington: Waitangi Tribunal, 1999) (doc A11), pp372–373

George Bourne (A TL, 1/2-002915-F)



Rua Kenana's circular courthouse and meeting house, Hiona (Zion), Maungapohatu, 1908. The building was modelled on King Solomon's courthouse, and a small council sat with Rua in the upper storey to pass judgments in local cases. The house was built of sawn totara, and its exterior was painted white with yellow diamonds and blue and white for the royal colours of Israel and yellow for the crown of gold. Judith Binney explains that the playing card emblems were used in the nineteenth century as mnemonics to the scriptures.

Despite early setbacks – particularly the terrible effects of an outbreak of typhoid and a measles epidemic which took 50 lives in the harsh winter of 1907 – Rua's communities of followers at Maungapohatu and in the Waimana district thrived in subsequent years.⁵² Rua founded the settlement known variously as the New City, Mount Zion, and the City of Redemption, at the foot of the tapu mountain Maungapohatu; it was a 'conscious recreation . . . of the biblical city of Jerusalem.'⁵³ His teachings were based on the scriptures, and his followers adopted the name Iharaira (Israelites), identifying with the Jewish history of dispossession. Like other nineteenth century Maori prophetic leaders, Rua saw himself as Moses; his destiny was to 'fulfil the quest of Moses: to return the people to their homeland and to their autonomy.'⁵⁴ Altogether he took 12 wives, from different hapu of Tuhoe. According to Binney, 'His purpose was to unite each part of the people

52. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 45

53. Judith Binney, 'Maungapohatu Revisited: Or, How the Government Underdeveloped a Maori Community', *The Journal of the Polynesian Society*, vol 92, no 3 (September 1983) (doc A128), p 353

54. Binney, 'Songlines from Aotearoa', p 232



Unknown (SCCSC, Auckland Libraries, 7-A3313)

The main road, Maungapohatu, 1908. At the top of the rise on the right is Rua's house, Hiruharama Hou. Some of the Riwaiti (Levites) stand in the street.

to him.⁵⁵ His followers were predominantly, although not exclusively, Tuhoe; many Whakatohea, who had lost so much land through confiscation, also came to live at Maungapohatu. Here Rua built Hiona, his circular, two-storeyed courthouse, modelled after King Solomon's courthouse. Judith Binney has described and gathered together photographs of the building of the city (many published in the *Auckland Weekly News*), with its tapu pa enclosing the house of the Lord, where Rua lived, the bank, store, and council room for his secretaries. By 1908, the community 'had taken on its essential first shape.' Hundreds of acres of land were cleared, orchards were planted, wooden houses built along two streets, and a stream diverted for water supply.⁵⁶ Peipi Richard Tumarae told us at our Maungapohatu hearing that part of Rua's strategy was to catalyse 'the growth of a new community at the foot of Maungapohatu. He toiled toward the fulfilment of Te Kooti's 1885 prophecy to make the land productive for the people.'⁵⁷ It was also a disciplined community, and religious services were central; the families had karakia twice, and sometimes three times a day. They were instructed by the Riwaiti (Levites), Rua's disciples drawn from various areas and bound by strict rules of tapu, who led scriptural study and the daily religious services, as well as that on the Saturday Sabbath.⁵⁸

Even as the new city was being constructed, suspicion of Rua's leadership and his influence was evident outside Te Urewera. This was most apparent during the debates over the Tohunga Suppression Bill, introduced into the House in

55. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 57

56. *Ibid*, pp 34, 45–52

57. Peipi Richard Tumarae, brief of evidence, 14 February 2005 (doc K26), p 3

58. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 45, 54

George Bourne (ATL, 1/2-075709-F)



Rua Kenana's house, Hiruharama Hou (New Jerusalem), Maungapohatu, April 1908. One side was for Tuhoë, the other for Whakatohea, who were among the first to join him at Maungapohatu. Hiruharama Hou was modelled on the house that Solomon built with instructions from his father, thus invoking Christ's lineage as the Son of God, and Rua's lineage as king and messiah.

September 1907. Although the purpose of this legislation has been much debated, there had been some official concern with 'tohungaism', as it was commonly called, dating at least from the 1890s. Legal provisions such as the Criminal Code Act 1893⁵⁹ were occasionally used against tohunga, although such measures tended to be used against those condemned as 'dangerous quacks and frauds' rather than against faith healers and traditional healers.⁶⁰ Those suspected of pushing 'quack' remedies were met with suspicion, particularly if they discouraged conventional medical treatment or prescribed harmful cures such as immersion in cold water. Some considered a provision under the Maori Councils Act 1900, enabling tohunga to be licensed, to be toothless, and pushed for more stringent measures.⁶¹ The Young Maori Party reformers, old boys of Te Aute College (notably Ngata, Peter Buck, and Maui Pomare), Raeburn Lange wrote, were 'unable to withstand the Pakeha clamour for outright suppression', which gathered momentum in this period.⁶² It was in this context that the Tohunga Suppression Bill emerged.

The Wai 262 Tribunal considered whether the Tohunga Suppression Bill was specifically aimed at combating the rising influence of Rua, a view held by some

59. Under section 240 of the Act any person 'who pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration' was liable to a penalty of one year's imprisonment with hard labour. These were terms reflecting New Zealand's inheritance from English law, as Lange pointed out: see Raeburn Lange, *May the People Live: A History of Maori Health Development 1900-1920* (Auckland: Auckland University Press, 1999), p 242.

60. Lange, *May the People Live*, pp 242-247

61. *Ibid*, pp 244-249

62. *Ibid*, p 246



George Bourne (Auckland War Memorial Museum, PH-1976-6-25)

A group of Rua's disciples, the Riwaiti (Levites), Maungapohatu, April 1908. The 12 disciples were modelled on the order of Levites which Moses set up by God's command, and their main duty was to study the scriptures and take the religious services held twice daily. They were drawn from different groups within Te Urewera and had played a key role in organising the pilgrimage to Maungapohatu in 1907 from Ruatoki, Te Teko, Te Waimana, Waioweka, Ruatahuna, and Te Whaiti.

scholars including David Williams (who also gave evidence in our inquiry).⁶³ The Tribunal's wider concern in its inquiry was whether the Act was justified as an appropriate response to the 'late nineteenth-century Maori health crisis' as Maori communities faced 'the inter-related effects of disease [particularly tuberculosis], poverty, and poor sanitation' and its impact on Maori traditional healing.⁶⁴ The Bill, it found, was not appropriate. The timing of the Bill and its definition of offences – which included 'attempts to mislead any Maori by professing or pretending to possess supernatural powers in the treatment or cure of any disease, or in the foretelling of future events' – reflected the Government's focus on Rua following his rise to public attention in 1906.⁶⁵ But, in the Tribunal's view, Rua's emergence simply provided a 'convenient tipping point for those who were arguing for

63. Waitangi Tribunal, *Ko Aotearoa Tenei: A Report into Claims concerning New Zealand Law and Policy Affecting Maori Culture and Identity, Te Taumata Tuarua*, 2 vols (Wellington: Legislation Direct, 2011), vol 2, p 616; see also Dr David V Williams, brief of evidence, 23 December 2004 (doc 18), p 20

64. Waitangi Tribunal, *Ko Aotearoa Tenei*, pp 608, 621, 625, 627

65. Tohunga Suppression Act 1907, s 2(1) (Waitangi Tribunal, *Ko Aotearoa Tenei*, p 614)

H Fortune (Auckland War Memorial Museum, PH-1977-1-12)



Rua addresses his followers at Whakatane, 1908. By this time, the Government's attitude to Rua was changing, because it was known he was prepared to sell land to fund economic development at Maungapohatu, and he met Prime Minister Joseph Ward at Whakatane.

more stringent measures to control tohunga.⁶⁶ And 'suppression' of tohunga by passing an Act which failed to distinguish between those who practised traditional healing practices and those who attempted treatments that were in fact harmful was 'not only unjustified but also racist'; what was needed was adequate health services for Maori.⁶⁷

Our main concern here is with the Government's attitude to Rua at this time. Certainly, as early as May 1906, it was wary of him. Constable Andrew Grant, based at Te Whaiti, was instructed to watch his movements under suspicion that he was acting as a tohunga.⁶⁸ It is clear from the parliamentary debates that members were highly antagonistic towards Rua's activities and the extent of his influence.⁶⁹ Nearly every member who spoke on the Tohunga Suppression Bill, including James Carroll and Apirana Ngata, made critical mention of Rua.⁷⁰ The antagonism to Rua by Maori members of the House is perhaps not surprising. Maori

66. Waitangi Tribunal, *Ko Aotearoa Tenei*, p 627

67. *Ibid*, pp 624, 627

68. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 73-74

69. 19 July 1907, NZPD, vol 139, pp 510-523

70. *Ibid*, pp 511-523

members faced a constant battle in this period, in both the press and Parliament, to defend their lands and their right to retain and farm them on the same footing as settlers. A leader like Rua provided handy ammunition for those hostile to Maori rights and aspirations on the grounds that they were still too backward; and he was clearly a source of frustration to Maori politicians because of that.⁷¹ In Rua's case such criticisms carried a degree of irony, given his careful promotion of health and sanitation measures at Maungapohatu and his aim of economic development for his people.

The Tohunga Suppression Act, however, was never used against Rua.⁷² Williams' view was that the general allegations made by the Tuhoe leader Numia Kereru and others against Rua once the Bill was passed, that he was 'leading the people into misfortune', causing deaths, trampling on the schools, and collecting money, would have been 'most unlikely to satisfy the criminal law's evidential and procedural requirements for trial and conviction.'⁷³ Rua's press also improved as Maungapohatu took shape. From late 1907, reports about his settlement at Maungapohatu were generally positive. Visitors were impressed by the strict standards of hygiene practised there and by the degree of discipline and order. The constable assigned to keep a watch on Rua made consistently positive reports about his community.⁷⁴ Newspaper accounts of Rua and his community were also often favourable.⁷⁵ Rua impressed reporters on his visit to Wellington in 1908 as someone not at all 'aggressively inclined towards European settlers and pakeha methods.'⁷⁶

By 1908, in fact, the Government's attitude to Rua was changing. The new political context was its wish to open Te Urewera lands to settlement, prospecting, and mining. We have outlined in chapter 9 the negotiations between Te Urewera leaders and the Crown from 1894 to 1896, which culminated in the passing of the Urewera District Native Reserve Act 1896. The Act provided for legal recognition of self-government by the peoples of Te Urewera within the newly created Reserve, through the election of a General Committee and, at the local level, komiti hapu. Alienation could only be conducted through the Committee – though the Reserve was not considered suitable for settlement, and extensive alienation was certainly not envisaged. But, as we have seen, the Crown took no steps to ensure that the General Committee was set up expeditiously in accordance with the expectations of Te Urewera leaders. Ten years after the Act was passed, there was still no sign of it. Only when the Crown began to contemplate a farming settlement scheme

71. Lange, *May the People Live*, p 249

72. *Ibid.*, p 254. Few people were prosecuted under the Act, and fewer still convicted.

73. David Williams, summary of evidence, 26 January 2005 (doc K3), p 24

74. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 52–54, 74. In December 1907, for example, Constable Grant was reported by the *Poverty Bay Herald* as speaking in praise of this 'remarkable man' and his 'social work': see 'A Sketch of Rua', *Poverty Bay Herald*, 30 December 1907, p 2 (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 74).

75. Webster, *Rua and the Maori Millennium* (doc K1), p 210

76. Newspaper cutting, ca July 1908, Best scrapbook M4, p 7 (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 41). Other newspapers made similarly positive comments.

for Te Urewera, and was anxious to expedite prospecting for gold, did it turn its mind to the General Committee, which under the Act had to consent to both land alienation and mining.

By then, in our view, it was far too late. As we pointed out in chapter 13, Tuhoe had lost the opportunity to get their self-governing structures established, and to begin managing their lands at a time when the Crown had been prepared to allow them room to do so. By the end of the first decade of the twentieth century, things were very different. They now faced a Crown focused on securing land for the settlement of Pakeha farmers in Te Urewera. These were poor circumstances in which to see their committees finally launched. This was underlined by the extent of Crown intervention in the membership and role of the committees. Ngata, then a native land commissioner, told Tuhoe leaders in January 1908 that they owed the Crown a 'large sum of money' for survey costs, and for the title investigation costs of the Urewera commission, set up under the UDNR Act. Under the Act, the Crown was in fact to bear the costs. But Tuhoe accepted responsibility. From this point on, Carroll, the Native Minister, worked both to secure the establishment of the General Committee and to achieve the alienation of land.

In this new political context, Rua attracted the attention of the Government because of his own plans for economic development, which he hoped initially to fund through royalties which might accrue through gold mining (Seddon, in his 1895 letter to Tuhoe setting out the basis of agreement with them, had written of the benefits from mining being shared with the 'hapus owning the land').⁷⁷ Rua, early in 1908, was reported to be negotiating with representatives of the Waihi Gold Mining Company – which caused the established Tuhoe leadership (also anxious to control mining) to ask the Government to intervene, since land could only be ceded for mining purposes (under the UDNR Act) by the General Committee.⁷⁸ Subsequently, Rua indicated that, as part of his strategy for the economic future of his people, he would be prepared to sell land. As Richard Tumarāe put it during our hearings, '[Rua] sold land to the government to raise the capital needed to develop his community, and in doing so to retain the heart of the Urewera.'⁷⁹ He wanted a reserve created at Maungapohatu, consisting of 20,000 acres that his followers had gifted to him in 1907; the money raised from land sales would pay survey costs and develop the reserve for farming.⁸⁰ He hoped to open some land to settlement to 'speed the completion of the partially constructed

77. Binney, 'Encircled Lands, Part 2' (doc A15), pp 382, 393–394

78. Urewera District Native Reserve Act 1896, s21. The Government had taken the position during the 1890s, before the UDNR Act was passed, that Te Urewera came under the Mining Act 1891 and the Government must have the owners' consent before prospecting licences were issued. Both Seddon and Carroll had assured Tuhoe at the time the Act was passed that the Government would not permit prospecting until 'clear rules' were established. The Government would support Tuhoe if it turned private prospectors away. The Government would not proceed to making regulations for the conduct of mining in the UDNR until 1908 (see chapter 13). See also Binney, 'Encircled Lands, Part 2' (doc A15), pp 393–397.

79. Tumarāe, brief of evidence (doc K26), p 4

80. Binney, 'Encircled Lands, Part 2' (doc A15), pp 394–395

stock route from Poverty Bay, and open up another from the eastern Bay of Plenty, meeting at Maungapohatu.⁸¹ He offered the Cook County Council the help of his people to complete the Gisborne route, but in vain.⁸² In November 1908 Rua is reported to have offered to sell to the Government 100,000 acres of land, backed, he later claimed, by the support of a petition of nearly 1,400 Tuhoe signatures.⁸³

During this period, the Government took care to establish a relationship with Rua. Between March 1908 and March 1909, he had meetings with both Prime Minister Joseph Ward and the Governor, Lord Plunket (this latter meeting, admittedly, following the official one with Numia Kereru at Ruatoki).⁸⁴ The Governor congratulated Rua on the health measures he had introduced at Maungapohatu, and urged him to work with other leaders of the tribe. Rua also met the Native Minister more than once. Kereru, who chaired the Committee, favoured leasing rather than sale, but it was sales the Government wanted. There was lasting tension between him and Rua, and Kereru had not favoured Rua's followers as members of the General Committee. Rua, on the other hand, would have preferred to control his own sales, without the Committee's involvement. In February 1910, he withdrew his offer of 100,000 acres because he had evidently just discovered that the sales must go through the Committee.⁸⁵ The Government then intervened. Ngata, by then a member of the Executive Council, operated in the field on behalf of Carroll; armed with the provisions of the UDNR Amendment Act 1909 allowing the Governor to appoint members to the General Committee, he ensured that Rua himself, and several of his supporters, were appointed to it in March 1910. Rua then moved his sales of land in two blocks (Maungapohatu and Tauranga), and land in two other blocks was also offered to the Crown.⁸⁶ Later, in 1910, Rua travelled to Wellington (at the Government's expense) and offered his interests and those of his followers for sale in six other blocks, which Carroll approved even though the sales had not been approved by the General Committee (see chapter 13).

These years were the high point of Rua's engagement with the Crown. By the time the first phase of purchasing from Rua and other members of the General Committee ended, the Crown had acquired interests equivalent to approximately 150,000 acres in the UDNR lands. Then from the end of 1910, as we have seen, Crown purchasing largely ceased for a period of years, and the General Committee also ceased to meet, apart from one last meeting in 1914. Rua's relationship with Ministers in the Liberal Government also seems to have come to an end by this

81. Binney, 'Rua Kenana Hepetipa'

82. Binney, 'Encircled Lands, Part 2' (doc A15), p 395

83. Webster, *Rua and the Maori Millennium* (doc K1), pp 231–232; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 40, 43

84. Binney, 'Encircled Lands, Part 2' (doc A15), pp 387–388, 397–400

85. 'Rua Kenana and all the Israelites' to James Carroll, 15 February 1910 (Miles, 'Te Urewera' (doc A11), pp 342–343; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 40)

86. Jonathan Easthope, 'A History of the Maungapohatu and Tauranga Blocks as Defined by the First Urewera Commission' (commissioned research report, Wellington: Crown Forestry Rental Trust, 2002) (doc A23), pp 159–160; Miles, 'Te Urewera' (doc A11), pp 343–344, 348–349

time. The Liberals went out of office and the Reform party formed a government in 1912.

17.5.3 Rua's response to liquor laws and his first convictions for offences, 1910–15

It was more or less at the time that the first phase of Crown purchasing ended that the police began to take an interest in Rua's supply of liquor to others, but we have not seen any evidence that this was other than a coincidence. It would seem surprising, in light of the kinds of interaction Ministers had with Rua, that the Crown might have had any reason to influence the charges brought against him for the supply of liquor. But at this point we will review the circumstances of Rua's appearance in court and sentencing, because they marked a turning point in his relationship with the authorities.

In the early years of the Maungapohatu community, Rua had not permitted smoking and drinking amongst the Iharaira. However, the restriction of alcohol proved difficult to enforce in relation to followers located at Waimana, close to willing suppliers of alcohol from local townships. To exercise more control over the traffic, Binney has suggested, Rua therefore began to supply liquor to followers himself, eventually selling whisky and beer from his store in Waimana.⁸⁷ In 1910, Rua approached Eastern Maori member Apirana Ngata to request a licence for Waimana.⁸⁸ According to Webster, Rua claimed that he had arranged with Ministers during one of his visits to Wellington that he could sell liquor at his Waimana settlement.⁸⁹

There was, however, no possibility that Rua might obtain a liquor licence at Waimana due to the laws that existed at the time. Special legislative provisions governing the sale of liquor to Maori dated back to the latter part of the nineteenth century. Such legislation was both protective and paternalistic. There was concern amongst both Maori and Pakeha about the tendency of storekeepers to make goods, including liquor, freely available at times when payments for land sales were made. Special legislation was designed to ensure that there was some protection for Maori by limiting the accessibility of liquor.⁹⁰ Large sections of the Maori and Pakeha populations disapproved of alcohol consumption, as was evident in increasing support for the temperance movement from the 1880s. The success of the temperance movement by the end of the century had introduced a new element into debates among Maori about liquor consumption. The Kotahitanga movement, for instance, sought prohibition of the sale of liquor to Maori men in 1895, and committees of Maori women in the movement passed similar resolutions; both were presented to Seddon.⁹¹ The Te Aute Old Boys' Association was

87. Webster, *Rua and the Maori Millennium* (doc κ1), pp 235–237; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 76, 80–81

88. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 81

89. Webster, *Rua and the Maori Millennium* (doc κ1), p 236

90. Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand* (Auckland: Auckland University Press, 1973), pp 248–250

91. Paul Moon, *Ngapua: The Political Life of Hone Heke Ngapua*, MHR (Auckland: David Ling Publishing, 2006), p 114

very concerned in the late 1890s about excessive liquor consumption among Maori, in the context of poor health and the continuing decline of Maori population numbers. Maui Pomare was reported in the press in 1901 as outlining the ‘new crusade’ that these young reformers hoped to lead to save Maori from ‘demoralisation and decay’: drunkenness, along with smoking and gambling, were to be eradicated.⁹² Ngata, in 1914, was still hoping that national prohibition would be achieved: ‘My position’, he said in Parliament, ‘is clear-cut . . . so far as the supply of liquor to Maoris is concerned, from my youth until now I have and shall oppose it everywhere.’⁹³ Yet for Maori, alcohol was a divisive social issue. According to Alan Ward, many Maori resented restrictive measures, beginning with Governor Grey’s Sale of Spirits Ordinance in 1846, which aimed to prevent Maori from obtaining liquor.⁹⁴

By the 1890s, growing opposition to the sale and consumption of alcohol was increasingly reflected in legislation. The Alcoholic Liquors Sale Control Act 1893 provided (in section 18(3)) that a three-fifths vote in a licensing district could turn that district dry. Restrictions on the sale of liquor had widespread public support. In New Zealand’s first national referendum in 1911, 56 per cent voted for national prohibition.⁹⁵ In districts that were not ‘dry’, the general laws of the day required sellers of alcohol, and their public premises, to be licensed. Licensing districts were generally the same as electoral districts and the number of publicans’ licences that could be issued in a district was tied to its population. By 1893, it was the law that no new publican’s licence could be issued in a district unless the most recent census revealed that its population had increased by 25 per cent since the previous census.⁹⁶

Among the legal restrictions on who could be supplied with liquor by licensed providers or at licensed premises were some that applied only to Maori. Under the Licensing Act 1881, and also under earlier legislation, the Governor by Order in Council could constitute as a ‘Native Licensing District’ a district in which the population was more than 50 per cent Maori (section 17(2)). In such a district, the supply of liquor to any Maori was prohibited, except for proven medicinal purposes.⁹⁷ In the late nineteenth century, the Waikaremoana Native Licensing District was constituted (including Te Urewera) within the Bay of Plenty Licensing District. In a native licensing district it was illegal for anyone – be they Maori or Pakeha, and with or without a licence – to supply alcohol to Maori. It seems that there were no licences issued at all in the Waikaremoana Native Licensing

92. ‘The Salvation of the Maori’, *Poverty Bay Herald*, 1 April 1901, p 3 (Marten Hutt, *Maori and Alcohol: A History*, 2nd ed (Wellington: Alcohol Liquor Advisory Council, 2003), p 52)

93. Apirana Ngata, 21 July 1914, NZPD, vol 168, p 848 (Hutt, *Maori and Alcohol*, pp 51–52)

94. Ward, *A Show of Justice*, pp 87, 248

95. Government Statistician, *The New Zealand Official Yearbook 1912* (Wellington: Government Printer, 1912), p 309. A 60 per cent majority was required for prohibition to be carried. The turnout was around 80 per cent of those on the electoral roll.

96. Alcoholic Liquors Sale Control Act 1893, s 14

97. Licensing Act 1908, s 269 (‘Report of the Royal Commission on Licensing’, 31 January 1945, AJHR, 1946, H-38, p 37)

District: the prohibition on supplying liquor to Maori no doubt deterred any would-be licensees from setting up business in areas where the population was predominantly Maori.

Although the 1908 Licensing Act did not relax the restrictions on the supply of alcohol to Maori in a Native Licensing District (see sections 269 and 270 of that Act), significant change came with the 1910 Licensing Amendment Act. Section 43 of the 1910 Act empowered the Governor to proclaim any part of New Zealand a district in which, with three exceptions, it would be an offence to supply liquor to any Maori. The main exception related to licensed premises: in a district proclaimed by the Governor under section 43, it would no longer be an offence to serve alcohol to Maori in licensed premises for consumption on those premises. In fact the entire North Island became subject to section 43.⁹⁸ While this allowed Maori to be served alcohol in existing establishments, section 30 of the 1910 Act stood in the way of anyone obtaining a new licence for premises in Te Urewera. Section 30, aimed at keeping the number of licences in a district at a stable level, stipulated that no new licence could be granted in any licensing district unless one had been forfeited or not renewed or had otherwise ceased to exist. With no licences issued in the Waikaremoana Native Licensing District, there was little possibility of one being forfeited or otherwise lapsing in the wider Bay of Plenty district and then being transferred to Waimana. The only exception to the law that no new licence was to be issued was stated in section 145 of the 1908 Licensing Act. It provided that where there had been a 25 per cent increase in population since the previous census, the voters in the district were entitled to vote on whether there should be a new liquor licence issued and if 60 per cent of voters were in favour, one would be available for issue.

The timing and effect of the Licensing Amendment Act 1910 is therefore significant: Maori could now be served alcohol in existing licensed establishments. No such establishments existed in Te Urewera at that time, but there were several public houses in nearby Whakatane and Opotiki. According to David Williams, this created an 'obvious difficulty' for Rua, who was building a new community of people 'with pride in themselves and with internal rules and regulations, but a long journey inland away from licensed premises that might attract and detain people who had work and families to look after at home.'⁹⁹ Rua therefore sought to control the distribution of liquor within his community, and sought a licence accordingly. But the law put a licence beyond the reach of any would-be licensee in Te Urewera.

Rua protested against the injustice of what he considered was 'racial discrimination' in liquor licensing, which he believed violated the principle of one law for both peoples ('Kotahi Te Ture mo Nga Iwi e Rua'), as emblazoned on the Maungapohatu flag.¹⁰⁰ When Rua's chief secretary Makarini testified in 1916,

98. It seems there was no proclamation in 1910, but proclamations under the 1908 Act were confirmed: 'Report of the Royal Commission on Licensing', 31 January 1945, AJHR, 1946, H-38, p 35.

99. Williams, summary of evidence (doc k3), p 25

100. Ibid

he told the court that he was an advocate for equal rights for Europeans and Maoris, and thought the natives should be allowed liquor licences: 'If a Maori was found with liquor in his possession he was prosecuted, but it was not so with Europeans.'¹⁰¹ Rua made a statement himself at his trial:

I did not like whisky being sold there by others. Liquor is an evil whether licensed or not. . . . If a negro wants liquor he may buy it, if a Chinese wants it he may do the same, but we, the owners of the land, are forbidden to do so. . . . Why should we be treated differently from other people?¹⁰²

It is clear that Rua had strong views on this – whatever his reasons for supplying liquor, or allowing its supply, in his communities. Nor is it surprising. Rua was simply on the other side of the fence on the issue of temperance, and it is clear that what he saw as unequal treatment of Maori under the law rankled with him. Having failed to obtain a licence, he proceeded to sell liquor at his Waimana settlement. According to Webster, by the end of 1910, it was rumoured throughout the Bay of Plenty that he was 'supplying beer and whisky to his followers.'¹⁰³

At the beginning of 1911, Rua's liquor sales came to the attention of the police, who descended on his Waimana settlement on 10 January 1911, and seized evidence that reportedly included 'several bottles of whisky, some beer, an empty cask and thirteen dozen empty whisky bottles.'¹⁰⁴ Rua appeared before the magistrate, Robert Dyer, at Whakatane on 21 February 1911 to face five charges of 'sly-grog selling' (selling liquor without a licence). It is not clear exactly which legislative provisions were the source of the charges. Several of the offences created by the 1908 Licensing Act could have been invoked. Section 195(1) of the Licensing Act 1908 made it an offence for any unlicensed person to sell liquor, and imposed increasingly heavy penalties for successive offences. Section 196 extended those penalties to any occupier of unlicensed premises who consented to liquor being sold there. The penalties were:

- (a) For the first offence he shall be liable to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for a term not exceeding one month:
- (b) For the second offence he shall be liable to a fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for a term not exceeding three months; . . .
- (c) For the third and any subsequent offence he shall be liable to a fine not exceeding one hundred pounds, or to imprisonment with or without hard labour for any term not exceeding six months . . .

101. 'The Trial of Rua', *New Zealand Herald*, 28 June 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, p 554)

102. 'Comedy in Court', *Auckland Star*, 15 July 1916, p 6

103. Webster, *Rua and the Maori Millennium* (doc K1), p 236

104. 'Raid on Rua's Pa', *Poverty Bay Herald*, 14 January 1911, p 6 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, p 550)

Section 197 applied where liquor was sold on unlicensed premises and the purchaser, with the consent of the seller, consumed it on the premises. The penalties for this offence were less severe: for the first offence, the maximum fine was £10; for a second and any subsequent offence, the maximum fine was £20.

Rua was convicted on February 28 on all five charges laid against him. He was fined £100 in total on four counts, plus costs, which he paid on the spot. The sentence on the fifth count, however, was to prove the crucial one. Rua was convicted and was ordered to come up for sentence when called upon; and the magistrate warned him that ‘unless he behaved himself (not only in regard to sly-grog selling, but in other respects)’, he would be sent to gaol. The police had only to report his misbehaviour and he ‘would certainly be imprisoned without the option of a fine.’¹⁰⁵ It appears that Dyer was relying on a provision in the Justices of the Peace Act 1893 which specified he might ‘on convicting the person charged, discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour.’¹⁰⁶ During the same week several cases were heard against individuals charged with selling liquor to Rua. A man named Tumanako ‘was charged with sly-grog selling, supplying liquor to Natives for consumption off licensed premises, and introducing liquor into a Native village’, and a Pakeha fisherman working with Tumanako was also charged with sly-grog selling and selling off premises. Smith, a barman, was charged with selling five cases of whisky to Rua on New Year’s Day, sending liquor into a native village, and selling liquor without a licence. All received substantial fines, and the licensee of the Opotiki hotel which employed the barman was fined too, after the Crown prosecutor told the court that the police sought the conviction ‘as a warning to all publicans concerned that they were responsible in such cases.’ The magistrate censured the licensee for his delay in sacking the barman.¹⁰⁷ The police, in short, were doing their job by tackling the supply of liquor to inland Maori communities at its source.

Rua’s actions highlight what appeared to be discrepancies between how alcohol was controlled in Maori and Pakeha communities. Yet, as Rua made clear when he appeared before the court, the existing legal provisions concerning the sale of alcohol were far from clear. He did not contest the facts, but challenged the law. He told Dyer that ‘he only desired to ascertain the law’, indicating he was making a deliberate political point.¹⁰⁸

105. ‘Rua’s Grog Shop’, *Poverty Bay Herald*, 28 February 1911, p 5 (Parker, supporting papers related to Rua Kenana (doc 15(a)), vol 2, p 551 (Williams, summary of evidence (doc 13), p 26))

106. Justice of the Peace Act 1908, s92(1)(b). The Magistrates’ Courts Act 1893 provided that each magistrate, by virtue of his office, was a Justice of the Peace, with full power to do alone whatever was authorised to be done by two justices under the Justices of the Peace Act (s17).

107. ‘Rua’s Grog Shop’, *Poverty Bay Herald*, 28 February 1911, p 5 (Parker, supporting papers relating to Rua Kenana (doc 15(a)), vol 2, p 551)

108. *Ibid*

17.5.4 Rua's 1915 convictions for offences and imprisonment for a 1911 offence

By the time Rua was next brought before the court in 1915, the First World War had broken out. The sale and consumption of liquor remained an important public issue, but by this time there was also a heightened official sensitivity to flouting of the liquor laws, and to civil disobedience more generally. As Richard Hill commented, the war changed things: 'Dissent was no longer to be tolerated.'¹⁰⁹ It was over four years since Rua had been charged with liquor offences. During that time, the authorities had either not been alerted to further violations or had decided against enforcement. But in May 1915, Rua was summoned again (with several others) on five new charges after a large hui at Maungapohatu at which a constable detected sly grog selling. He was charged with supplying liquor to natives, introducing liquor into a Maori pa, consenting to the sale of liquor as 'the occupier of premises', and aiding and abetting others to sell liquor.¹¹⁰ Rua appeared before Magistrate Dyer at Rotorua.¹¹¹ He was convicted on five charges and ordered to come up for sentence when called upon. He was then sentenced on the fifth count of his 1911 convictions to three months' imprisonment with hard labour.

The appropriateness of this sentence of imprisonment has been the focus of considerable discussion between the parties in our inquiry. The Crown, in pleadings, stated that the maximum penalty for a first offence under the Licensing Act was only one month's imprisonment, but Dyer instead treated the conviction for which the 'suspended sentence' was imposed as a second offence. Rua was therefore exposed to a 'greater penalty as a result of the suspension of the sentencing than he would have received if the sentence had been imposed at the time'. This was 'an excessive penalty assuming that all the charges related to the same set of events.'¹¹²

Dr Williams contended that the imposition of further 'suspended sentences' on the 1915 convictions meant that Rua was not just punished once:

the court re-empowered the government authorities to re-arrest Te Rua at any time in the future. They would be entitled to do so if they thought he had failed to observe the ongoing requirement of a suspended sentence that the convicted person must continue to be of good behaviour. This form of sentence had the effect of a sword of Damocles hanging over a convicted person. Any alleged 'misbehaviour' which, as Dyer SM had observed, need not require the commission of another offence, could be a ground for a recall before the court. The prosecution could then request the judge to order that the imprisonment sentence should now be served.¹¹³

109. Richard S Hill, *The Iron Hand in the Velvet Glove: The Modernization of Policing in New Zealand, 1886–1917* (Palmerston North: Dunmore Press, 1995), p 382

110. Constable Timothy James Cummings, deposition, no date, pp 6–7 (Parker, supporting papers relating to Rua Kenana (doc 15(a)), vol 1, pp 231–232). Cummings stated that two of the charges arose from the hui, while the other three referred to different dates.

111. Webster, *Rua and the Maori Millennium* (doc κ1), p 238

112. Crown counsel, final statement of response (statement 1.3.2), sec T, pt 2, p T82

113. Williams, summary of evidence (doc κ3), p 27

Dyer's own view of the purpose of his use of the court's sentencing powers was expressed in exactly this language, when he told Rua that he would 'have a hold over him' and be able to use the law against him at any time.¹¹⁴

17.5.5 Rua's sentencing in January 1916 on the 1915 convictions

Such warnings soon proved to be in earnest. Rua was released from prison in August 1915. But only five months later, in January 1916, Dyer summoned him to appear at Whakatane for sentence on the five charges of which he had been convicted in May 1915. An account in the *Auckland Star* reported that Rua had allegedly resumed the sale of alcohol.¹¹⁵ Rua, however, later testified that, between his release from gaol in August 1915 and the new summons in January 1916, he had travelled to Opotiki and Whakatane, but that the 'police did not suggest to me on any of those occasions that I was breaking the law.'¹¹⁶ The summons was delivered on 19 January 1916 by the Maori constable at Opotiki, Te Kepa Tawhio (referred to as 'Keepa' in later court documents). According to Binney, the cocksfoot harvest, which the Maungapohatu people depended on, had begun. As the district constable, Grant, later pointed out, once started the harvest could not be stopped without all the seed being lost.¹¹⁷ Rua provided reasons for his refusal to accompany the officers, which Te Kepa recorded. He said that he was busy with the harvest, and asked that the case be held over until the following month, as Te Kepa had explained that there would be another court session in mid-February. Dyer, however, judged Rua's request for an adjournment to be in contempt of court. He proceeded to sentence Rua, in his absence, on each of the 1915 charges.

Rua was sentenced to imprisonment on each of three earlier convictions: one month's hard labour for introducing liquor into Maori pa, one month for permitting the sale of liquor while the 'occupier of premises', and one month for 'aiding and abetting others to sell liquor'. The sentences were to be cumulative.¹¹⁸ He was also fined £50 plus costs on each of two other charges.¹¹⁹ The Crown commented that this meant that 'if Rua defaulted [on the payment of his fines] a further three months imprisonment was to be served on each charge.'¹²⁰ This, we note, would have meant a total gaol term of nine months. Constable Timothy Cummings, in later deposition, stated that from May 1915 'up to the present, accused has not been charged with any other offence.'¹²¹ We add that the *Auckland Star* report of the January hearing indicates that statements were made in court (in his absence)

114. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 82

115. 'Rua's Little Rest', *Auckland Star*, 29 January 1916, p 6

116. Crown counsel, pages from Rua Kenana trial, as requested from Judith Binney, 31 March 2005 (doc K30)

117. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 85

118. 'Rua's Little Rest', *Auckland Star*, 29 January 1916, p 6

119. Cummings, deposition, pp 7–8 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, pp 232–233)

120. Crown counsel, final statement of response (statement 1.3.2), sec T, pt 2, p T85

121. Cummings, deposition, p 7 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 232)

pointing to Rua's discouragement of enlistment, and his expectation that things would be better when the Germans ruled New Zealand.¹²² Such statements would not have inclined Dyer to leniency.

The Crown, in its pleadings, was concerned about Rua being called up for sentence on the 1915 convictions in January 1916, after Rua had been released from prison having served his three months, 'apparently without further offending'. An order to come up for sentence if called upon, the Crown stated, 'was not intended as a means of leaving the infliction of a punishment to another day to be chosen by the Magistrate'.¹²³ Thus the Crown accepted in closing submissions that the court's calling up Rua for sentence without further wrongdoing was a 'serious issue'.¹²⁴

We share the concern of the Crown that 'suspended sentences' were used in this way. While we cannot make any further comment on a court decision, which was not an act of the Crown, we must note that the understandable confusion that surrounded the sentences (which must have been exacerbated in a cross-cultural situation), combined with Dyer's evident failure to establish that Rua's non-appearance before him in January 1916 was not in fact an act of defiance, would play a key part in the escalation of tension that followed.

At this point the question arises whether the decision to call Rua up for sentence in January 1916 was due to any ministerial interference. According to Binney, Native Minister William Herries 'took the deliberate decision to revive the old charges'. Binney's allegation was that Herries instructed Magistrate Dyer to use Rua's 1915 convictions for offences against the liquor laws to send him to gaol.¹²⁵ However, we have seen no evidence of any such instruction. We therefore accept the Crown's submission on this point.¹²⁶ Binney provided us with copies of two pages from a transcript of Rua's court testimony in support of her suggestion of ministerial interference.¹²⁷ Although the transcript indicates that Rua met with Herries at Tauranga in January 1916 to discuss the sale of land interests in the UDNR, and that Dyer saw Rua on the same visit – without calling on the police to arrest him – it provides no evidence that Herries met with Dyer while they were there. The only meeting mentioned in the transcript was one involving Rua and Herries about land matters.

We note also the Crown's submission that Herries' notations on correspondence from Numia Kereru, in March 1916, referring to the prospect of Rua being arrested, the importance of maintaining the mana of the law, and assuring Numia that Rua would only travel to Wellington as a prisoner, 'could suggest that the Native Minister played a role in the proceedings'.¹²⁸ Binney did not explicitly make this link. Crown counsel pointed out nevertheless that Dyer had already sentenced

122. 'Rua's Little Rest', *Auckland Star*, 29 January 1916, p 6

123. Crown counsel, final statement of response (statement of response, 1.3.2), sec T, pt 2, p T82

124. Crown counsel, closing submissions (doc N20), topic 17, p 7

125. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 82

126. Crown counsel, closing submissions (doc N20), topic 17, p 6

127. Crown counsel, pages from the Rua Kenana trial (doc K30)

128. Crown counsel, closing submissions (doc N20), topic 17, p 7

Rua in January, before the exchange of letters, so Herries was simply stating a fact when he said that Rua would shortly be arrested. He was not indicating an intention to intervene. Counsel stated that there was ‘no evidence of government manipulation of judicial process’ at that time: ‘This is a serious charge and would require a high evidential threshold to be met before such a charge could be safely made.’¹²⁹ We accept counsel’s submission that the evidence does not meet this standard.

It is not clear to us, however, that Dyer had a good reason to summon Rua in January 1916. The *Auckland Star* reported at the time that the court was alerted to alleged renewed offending by police: ‘[a]ccording to police information, Rua has reverted to his former ways since his discharge from gaol, and on Saturday last he was summoned to appear at Whakatane for sentence on the five charges in respect of which he stood convicted.’¹³⁰ Six months later, the prosecutor at Rua’s Supreme Court trial similarly claimed that in May 1915 ‘Rua was carefully instructed by Mr Dyer in respect to the law relating to sly grog selling. After completing his three months in gaol Rua returned to his stronghold, and drunkenness among his followers again became frequent. It was decided to serve him with a notice calling upon him to appear before the magistrate for sentence.’¹³¹ But as we have noted, and as Constable Timothy Cummings stated in his deposition, Rua had not been charged with any other offence since May 1915. Rather, the ‘sword of Damocles’ that had been held over him – convictions with orders that he could at any time be called up for sentence – descended in the form of three months’ hard labour and a fine of £50 plus costs. Although we reiterate that this was an action of the court, not the Crown, it nevertheless had serious consequences for Rua and his community.

17.5.6 Conclusions: the Crown’s role up to 1916

While there is no robust evidence, in our view, that Government Ministers intervened in the judicial process, we agree that the court’s handling of the liquor charges, its use of ‘suspended sentences’, and its evident failure to communicate effectively with Rua about the reasons for his summons to court in January 1916 were cause for concern. In our hearings, claimant counsel quoted Tamati Kruger’s use of the expression ‘whakairi patu’ (the suspended patu) to describe how Tuhoe lived under the constant threat of Crown punitive action.¹³² Mr Kruger was referring in his evidence to an earlier Tuhoe leader, Tamarau Te Makarini, who faced a different kind of dilemma when he tried to protect disputed land for Tuhoe at the end of conflict in Te Urewera – land which would ultimately be alienated in the four southern blocks (see chapter 7):

129. Ibid

130. ‘Rua’s Little Rest’, *Auckland Star*, 29 January 1916, p 6

131. ‘Rua Comes to Trial’, *New Zealand Herald*, 10 June 1916, p 9 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, p 552)

132. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 313

No reira, he aha te rerenga ki a Te Makarini? He whakairi patu tenei. Koina te tikanga o te whakairi patu. Ahakoa ka huri koe ki hea, he mate kai reira. Ka taka te mate ki runga i a koe, koina te kupu a Tuhoe, 'Whakairi Patu'.¹³³

So what was the goodwill of Te Makarini? The suspending of the patu. This is the meaning of the suspending of the patu. No matter where you turn there is trouble. If trouble was to befall you, that is a Tuhoe saying; the suspending of the patu.¹³⁴

But the term, counsel suggested, applies equally to the circumstances faced by Rua during this period.

Although Ministers cannot be said to have influenced charges against Rua up until January 1916, they did become involved from February 1916 onwards, in a context in which the Crown's growing hostility towards Rua led it to take considerable interest in his case. He had long been an unconventional and high profile figure – and by 1916, when the Government had decided it would no longer deal with the General Committee to buy land in the UDNR, but would (in defiance of the law) deal with individual Maori to secure purchases on a massive scale, Rua was no longer essential for the land purchase programme. The Government had no need now to maintain good relations with him. At a time when the country was at war, Ministers would quickly move to play a part in his successful arrest.

17.6 WHY DID THE CROWN SEND A LARGE ARMED POLICE FORCE TO ARREST RUA AND WAS THIS ACTION JUSTIFIED?

SUMMARY ANSWER: The Crown's decision to send a large armed police force to Maungapohatu to arrest Rua cannot be justified, as the Crown very properly conceded in our inquiry. The police had no alternative, once the court had issued a warrant for Rua's arrest, but to execute it. It is the manner of the arrest that is at issue. The sequence of events that occurred from the moment Rua was called up for sentence for his 1915 convictions on liquor charges culminated in the Crown's unilateral decision that the arrest would be by a show of force. Following his non-appearance in court, Rua was sentenced in his absence to gaol. The two police officers who went to arrest him in February 1916 found him at Te Waiiti, near Ruatahuna. They spoke with him for some hours, but were unable to shake his belief that he had served his time. He made it clear that he did not therefore intend to accompany them. The local constable, Andrew Grant, considered the meeting 'good-humoured' – a description borne out by his own account. The Rotorua sergeant, Denis Cummings, evidently found it more tense; though according to Grant's account, he spoke freely with Rua towards the end of the meeting. Already, by this time, the interest of the police commissioner, John Cullen, had

133. Tamati Kruger, transcript of oral evidence, Waimako Marae, Tuai, 18 October 2004 (doc H72), p9

134. Tamati Kruger, transcript of simultaneous English interpretation of oral evidence, Waimako Marae, Tuai, 18 October 2004 (doc H72(a)), p6

been aroused – perhaps by statements in the report of the January court case that referred to Rua's evident favouring of 'German rule', and his opposition to local enlistment. Cullen instructed Cummings to take notes of the meeting, and Rua made a number of defiant statements indicating support for the Germans, the enemy of the British Empire. We doubt that he appreciated how his remarks might be received by the State. He seems simply to have wished to irritate the police.

From this point, a peaceful resolution to the situation remained a possibility, particularly following the involvement of the Apirana Ngata, who travelled to Maungapohatu and met with Rua. Ngata established that Rua did not understand the causes of the police attention, and asked to discuss the matter with a more senior Minister. But the conservative Reform Government (elected in 1912) took a harsh view of those who did not support the war effort: those suspected of being 'enemy aliens' were detained, as were hundreds of conscientious objectors. Although Cullen had no alternative but to execute a warrant for arrest, his preparations for a police operation indicate an intention to make an example of a man whose way of life and messianic beliefs seemed to mark him as challenging the norms of the Pakeha State. Cullen was best known for his harsh handling of the Waihi miners' strike of 1912 and the waterfront strike of 1913, and began preparations for an armed expedition at an early stage, even as Ngata was at Maungapohatu attempting to negotiate a peaceful outcome. Police Minister Alexander Herdman meanwhile travelled to Ruatahuna, in response to Rua's request. But he did not go to Maungapohatu, as Rua had expected, and instead sent messages intimating that he expected Rua to come and give himself up at Ruatahuna. He failed to offer Rua what might have been the opportunity for a dignified exit from his predicament, and instead threatened the use of force. Given the preparations already under way for a major police operation, and Herdman's existing views on Rua, we doubt that the political will existed for any sort of negotiation. But the alternative the Crown chose, sending a large armed police expedition into a peaceful community, was a move fraught with danger.

17.6.1 Introduction

The immediate reason for sending an armed police expedition to arrest Rua was that he had been sentenced to a term of imprisonment in his absence from court on charges on which he had been convicted in 1915; and that the police had not been able to arrest him at Te Waiiti on 11 February 1916, on which occasion he had allegedly made seditious statements. The question is whether this indicates a scale of offending sufficient to justify police action such as was undertaken. Crown counsel stated that the police were entitled to arrest Rua, but conceded that the 'scale of the force used was inappropriate and excessive'. They suggested, however, that the Crown 'clearly perceived Rua as a considerable threat', linking this to 'a degree of war hysteria at the time' and that the war contributed to an environment 'in which the events escalated to the extent of the police being dispatched to Maungapohatu to enforce the law'.¹³⁵

135. Crown counsel, closing submissions (doc N20), topic 17, pp 3, 8

In fact it is clear that Crown attitudes to Rua by this time were very different from what they had been six or seven years earlier. There were two main reasons for this. First, there had been a change of government; the conservative Reform Government came to power in July 1912. Its Native Minister, William Herries, as we have seen, decided to bypass the General Committee when he resumed purchase of UDNR lands in 1915, and buy shares in blocks from individuals. Thus, not only Rua Kenana but the whole Committee would be unnecessary to the Crown's purchase drive. The need to sustain a relationship with him had passed some years earlier.

Secondly, New Zealand was at war. The First World War had broken out in 1914, and New Zealand would show itself very unforgiving to those who refused to throw themselves whole-heartedly into the war effort. Rua, as we will see, made statements which were interpreted as challenging not only the war but the British empire. He opposed the war and discouraged Tuhoe participation. In this context Rua attracted renewed State suspicion – despite the apparent remoteness of his community.

This is evident in the fact that key political figures such as Ngata, Herdman, and Herries 'appeared to take a close interest in the issue', as the Crown acknowledged, which implies that more was at stake than simply a matter of judicial process relating to liquor charges. As counsel put it, 'It is hard to accept that the high profile of Rua as a political figure (and potential troublemaker) did not play some role in the way that the events were set in train in January 1916.'¹³⁶ Given that interest, however, the question also arises whether there were opportunities for ensuring a peaceful resolution to the situation that simply were not taken.

17.6.2 The attempted arrest of Rua at Te Waiiti, February 1916

The January summons of Rua to the Whakatane court after he had already served a three-month gaol term, and the magistrate's decision to sentence him on earlier charges, to a longer gaol term, triggered the events that culminated in the armed expedition to Maungapohatu. The most significant outcome of the January court hearing was the sudden interest of national police authorities and, in particular, Police Commissioner John Cullen. Cullen's involvement might have been exceptional if the circumstances were simply those of a man who had failed to appear for sentence on earlier charges relating to the supply of liquor. But it is likely that Cullen's attention was sparked by a report of the January court hearing, published in the *Auckland Star*. The article – entitled 'Rua's Little Rest; Another Nine Months in Gaol; "Prophet" Predicts German Rule' – noted:

It was stated that Rua had been promising his followers a good time when New Zealand passed under German rule, which he assured them will be soon. The police stated that, owing to Rua's ways it was practically impossible to get Maoris to enlist from his district.¹³⁷

136. Crown counsel, closing submissions (doc N20), topic 17, p 7

137. 'Rua's Little Rest', *Auckland Star*, 29 January 1916, p 6

Arthur Breckon (ATL, PA1-0-042-50-2, F-75707-1/3)



Constable Andy Grant outside the Ruatahuna post office. Grant was the district constable at Te Whaiti from 1900 to 1923 and one of the two officers who unsuccessfully attempted to arrest Rua in February 1916 at Te Waiti, near Ruatahuna. Rua had failed to appear in court in January to be sentenced on liquor charges (convinced he had already served his time), but in the heated climate of the First World War, Police Commissioner Cullen had become interested in Rua, who was said to have made seditious statements. Cullen instructed the two policemen to take notes if any such language was used.

From this point on, Rua's defiance of the law was suspected to include sedition.

In the wake of the new prison sentence imposed by Dyer in January, a warrant of commitment to prison was issued for Rua's arrest. Constable Andrew Grant and Sergeant Denis Cummings of Rotorua (the brother of Timothy Cummings) were dispatched on this mission. It emerged later at Rua's trial in Auckland that Grant and Cummings were acting on written instructions from Cullen to try to arrest Rua, but that 'if he used violence not to arrest him'. The attempts of Rua's defence counsel, JR Ludson, to cross-examine Sergeant Cummings further on the instructions were cut short by the judge, who stated that the line of questioning was 'a sheer waste of time', and that counsel had 'no right to question [the witness] about official documents'. But Cummings confirmed that he had a written instruction to 'take a note of any seditious language which Rua might use'.¹³⁸ We conclude from these statements that Cullen instructed Cummings to take notes, and not to try to force an arrest. This may have been because Cullen wanted to be in charge of the arrest himself. On 22 February, nine days after the attempted arrest of Rua, he

138. 'The Rua Trial', *Auckland Star*, 13 June 1916, p 6

'sought and gained permission' to oversee any subsequent operation to conduct an arrest.¹³⁹

On 13 February 1916, Grant and Cummings arrived at Te Waiiti, near Ruatahuna, where Rua had gone to remove the tapu on old graves. Binney stated that the accounts of what happened following their arrival were 'totally conflicting'.¹⁴⁰ It seems clear, however, that Rua believed he was being arrested on charges for which he had already been imprisoned. According to Constable Grant (who testified that he spoke Maori fluently), the police had '5 warrants 3 Commitments for one month [each] . . . the other 2 were Distress Warrants [for unpaid fines]'. He read them to Rua, translated into Maori, one at a time. 'Rua kept breaking in saying I know I served my time for that.' Grant explained that he had not yet served his time on the 1915 convictions, and that he now had to serve his time for those.¹⁴¹ Rua invited Grant and Cummings for breakfast, and they talked for nearly three hours attempting to explain the position to him. The police then told him he was under arrest, but Rua refused to go with them, calling out to Cummings in English 'Come on arrest me', and to his people, 'Come and see them arrest me'. 'If you put a hand on me', he added, 'you will drop down dead'. Evidently getting fed up, he called his people to get the horses to return to Maungapohatu. According to Grant, he 'went away in a huff'. Grant called him back to say goodbye, and Rua turned back and shook hands with both policemen. Cummings then talked to Rua in English for about half an hour which, according to Grant, Rua 'fully appeared to understand'. At this point Rua asked them to send a 'big man' from the Government if they wished to pursue the matter, the Governor or the 'Second Govr [the Prime Minister] or the Minister', and suggested that the magistrate come to Maungapohatu and try him there. He spoke of his family, and then rode off.¹⁴²

Constable Grant said that 'the utmost good humour prevailed' during the three hours – in contrast to the later statement of his colleague, Sergeant Cummings of Rotorua, that Rua's manner was like a 'raving lunatic'.¹⁴³ Cummings testified, however, that he did not think there was a risk of violence: 'as long as we did not touch him, Rua would be all right.'¹⁴⁴ He had initially claimed that Rua had around 100 of his 'tribe' around him at Te Waiiti acting in a bellicose manner, but later admitted

139. Richard S Hill, 'John Cullen', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/3c42/1>, last modified 1 September 2010; Hill, *The Iron Hand in the Velvet Glove*, p 383. Hill notes that the Liberal Government appointed Cullen as police commissioner in 1912, so he was not a Herdman appointee.

140. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 85

141. Papers relating to Rua Kenana, MS-papers-7054-2, Alexander Turnbull Library (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 374)

142. *Ibid* (pp 379–380)

143. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 87. Binney, Chaplin, and Wallace state that both Cummings and the road inspector for the Public Works Department, William Snodgrass (who accompanied police to Te Waiiti), used the term 'raving lunatic' to describe Rua. We note, however, that the evidence we have seen only refers to Snodgrass as having said it.

144. 'The Rua Trial', *Auckland Star*, 13 June 1916, p 6

the true number was about 20.¹⁴⁵ Grant, on cross-examination in Rua's trial, stated that 'no one spoke or did anything to indicate that they refused to allow him to be taken away' and that the decision not to take Rua by force was premeditated.¹⁴⁶

Towards the end of the long discussion, Rua was reported to have made a number of defiant statements, according to notes kept by police. Among these were his affront that the 'English' would not give him a liquor licence ('they have two laws one for the Maori and one for the Pakeha'), the likely fate of the English king at the hands of the Germans, and his intention of giving money to the Germans. Binney pointed out, however, that Grant did not mention either the war or the Germans in his Daily Diary record.¹⁴⁷ Accounts by Maori present at Te Waiiti, however, stressed Rua's refusal to go with the police because he believed he had already served gaol time for the offences in question, and his wish to have a Minister visit Maungapohatu so he could see that rumours that the village was being fortified were untrue.¹⁴⁸ One thing is clear. Rua's talk with the police – deep in the bush – was focused almost entirely on the charges against him arising from his liquor offences, the court's decision to call him up for sentence, and the reasons why the police had come to place him under arrest. That is what he thought was at issue. His blustering references to the Germans seem to have been made as an afterthought. We agree with Webster that they were likely to have been made 'in the heat of the moment'.¹⁴⁹

What Rua wanted was the investigation of the charges against him and his sentences. A defence witness at his later trial, Pinohi (Tukua Te Rangi, the son of Tutakangahau), testified that he 'heard Rua declare he wanted the case to be a Supreme Court matter, so that it might be investigated to the foundation'.¹⁵⁰ Rua's defence counsel explained at his trial that 'had the accused gone with the police freely, every Maori in New Zealand would have looked upon his actions as an admission of guilt. Therefore, he wished to be arrested physically'.¹⁵¹ Rua testified himself that he would not have gone with the police officers unless they attempted to remove him.¹⁵² But at Te Waiiti, he also asked to see a senior Crown representative. He had had such meetings, of course, in earlier years, and had met with Herries in Tauranga as recently as January 1916 to discuss the sale of interests in the UDNR.¹⁵³ Perhaps he hoped that the whole situation might be resolved

145. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 87

146. Grant, testimony, no date (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p382)

147. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 86–88

148. *Ibid*, p 88

149. Webster, *Rua and the Maori Millennium* (doc K1), p 239

150. 'The Trial of Rua', *New Zealand Herald*, 4 July 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, p 557)

151. 'The Trial of Rua', *New Zealand Herald*, 28 July 1916, p 5 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, p 567)

152. 'Rua's Justification', *Auckland Star*, 13 July 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 2, p 563)

153. Crown counsel, pages from Rua Kenana trial (doc K30)

through negotiation – or, at least, that the arrival of a Minister would lend some dignity to the proceedings, if he had to agree to go back to court. Either way, it was unlikely that he had anticipated the arrival of a force of the type that later arrived at Maungapohatu, given that only two officers had been sent to Te Waiiti. In that sense, the defiant stance he took backfired on him disastrously.

In any case, it is clear that Rua's refusal to appear in court and subsequent resistance to arrest (that is, to the rule of law) during war time – when combined with alleged statements in support of the empire's enemies – offered the Government a strong opportunity to move against him.

17.6.3 Attempts at political intervention, and Cullen's preparations for an armed police expedition, March 1916

Did the failed attempt to arrest Rua at Te Waiiti justify the armed police expedition that followed? Two police may have been insufficient to arrest him, but why should the Crown have decided on a force of 70 armed men? What alternatives were open to the Crown at this point?

Two weeks after the events at Te Waiiti, and shortly after Cullen was authorised to lead a subsequent expedition to arrest Rua, the possibility of a peaceful solution did emerge. The Crown responded to Rua's invitation to send a senior representative to meet him. According to a statement later made by Herdman, the Government asked Apirana Ngata, as the local member of Parliament, to visit Maungapohatu and 'point out to Rua the wisdom of submitting peacefully to police.'¹⁵⁴ Another account reported that Ngata went to effect a 'peaceful settlement.'¹⁵⁵

Ngata arrived at Maungapohatu on 5 March 1916. He told Rua that he was trying to understand the cause of the stand-off, and suggested that Rua might go to Wellington to see Herdman. But Rua refused, and Ngata agreed that he would return to Wellington to explain to the Minister Rua's reasons 'for not giving himself up.'¹⁵⁶ They also agreed that if it should become clear that Rua was in the wrong, he would then give himself up. Rua again requested that the Governor or a senior Minister should come to visit him, but he stressed that the police should not be involved.¹⁵⁷

The events that followed, however, do not point to a Government determination to reach accommodation with Rua about the manner of his arrest. Upon returning to Wellington, on 11 March, Ngata and Herdman met to discuss the outcome of Ngata's visit. They agreed that Rua should travel to Ruatahuna and surrender to the authorities there. Ngata then wrote to Rua advising him of these terms: he must now submit to the law, and though he might be shown some leniency, his meeting with Herdman would amount to his giving himself up.¹⁵⁸

154. 'The Arrest of Rua', *New Zealand Herald*, 5 April 1915, p 9

155. 'The Trial of Rua', *New Zealand Herald*, 20 June 1916, p 5

156. *Ibid*

157. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 88; Webster, *Rua and the Maori Millennium* (doc K1), pp 240–241

158. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 89

Herdman then set off for Ruatahuna, accompanied – significantly – by Police Commissioner Cullen.¹⁵⁹ Ngata, citing business, did not return with Herdman. Instead he suggested that Herdman rely on Henry (Tai) Mitchell, a Maori surveyor known to Rua, as a go-between.¹⁶⁰ Mitchell forwarded letters from Herdman and Ngata to Rua from Ruatahuna. Then, on 17 March, Mitchell went to Maungapohatu with a second letter from Herdman, and told him also that he should come at once to meet Herdman at Ruatahuna, and give himself up. He would then be taken to Auckland. According to Binney, Herdman warned in the letter that if Rua did not submit, the Government would ‘take immediate steps to have the law enforced’.¹⁶¹ Mitchell added that the country would be ‘filled with soldiers’.¹⁶² Although Mitchell learned that Rua was still convinced he was being punished twice for the same offence, he did not correct Rua’s misapprehension, nor did he tell Herdman that this was what Rua believed. Rua, for his part, had not been able to receive the Minister at Maungapohatu and satisfy his own wish for a discussion with his followers around him – which might have allowed him the possibility of a dignified exit. To go to Ruatahuna was to go out of his own territory, and perhaps – with the police there – to risk being bundled away. The presence of the police was contrary to the agreement he reached with Ngata.¹⁶³ In essence, he was faced with an ultimatum: surrender or face a show of force.

From the point when Rua refused to accompany Mitchell back to Ruatahuna, according to Herdman’s later account, the die was cast. He himself had been to Ruatahuna ‘so that all peaceful means of getting him [Rua] to comply with the law should be exhausted’. Rua refused to respond to his invitation. The decision was then made to send ‘an adequate force of police to Maungapohatu to capture him’.¹⁶⁴ But the Crown’s approach to these discussions, alongside other efforts that were being made at the same time, suggest to us that it did not make a real effort to see that all ‘peaceful means’ were exhausted.

In fact, preparations for an armed expedition had already begun. This was partly due to the interest in the case developed by Police Commissioner Cullen, who was eager to confront Rua. As we have seen, Cullen secured the authority to arrest Rua himself as early as 22 February, well before Ngata even arrived. A personal friend of Herdman, Cullen had been a controversial appointment as commissioner of the New Zealand Police Force in 1912. He took on the ‘enemies of order’ in handling both the Waihi strike in 1912 and the Waterfront strike in 1913. He was determined to achieve the collapse of the strike of miners at Waihi; and during the waterfront strike swore in special constables, including mounted men from the

159. According to Webster, Cullen was with Herdman, but we have been unable to source this statement: Webster, *Rua and the Maori Millennium* (doc K1), p 241.

160. ‘The Trial of Rua’, *New Zealand Herald*, 20 June 1916, p 5

161. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 89

162. Recounted in Te Iwikino’s evidence before the court: ‘Rua on Trial’, *Auckland Star*, 26 June 1916, p 6 (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 89).

163. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 89; see also ‘The Trial of Rua’, *New Zealand Herald*, 20 June 1916, p 5.

164. ‘The Arrest of Rua’, *New Zealand Herald*, 5 April 1916, p 9



SP Andrew Ltd (ATL, 1/013786-C)

Police commissioner John Cullen. During the 1912 Waihi strike and 1913 waterfront strike, Cullen had led the police, and he obtained permission to personally lead the expedition to apprehend Rua Kenana.

country ('Massey's Cossacks'), presiding over 'violence between strikers and the forces' in a period of great social and political tension.¹⁶⁵ The claimants contend that Cullen was 'seeking glory before he retired later in 1916'. In their view, based on Cullen's planning, 'the Crown not only expected, but actually intended violence'. This referred primarily to the force he later assembled of 'several mounted police who had previously served under him at Waihi in 1912, and a surgeon to treat the wounded'.¹⁶⁶ Most telling, it seems to us, is that his previous experience in handling large forces on active duty was in industrial disputes.

On 6 March, Cullen wrote to the inspector general of police at Sydney to ask if 50 automatic pistols for 'use of police here' and 5,000 rounds of ammunition could be supplied, and at what cost.¹⁶⁷ On 7 March, having received an offer (via the Auckland district office of the New Zealand Police) from Captain E D'Esterre of the Opotiki squadron of the New Zealand Legion of Frontiersmen to assist the police in the arrest of Rua, Cullen forwarded the correspondence to the Minister of Police, Herdman. And he added the following minute:

165. Hill, 'John Cullen'

166. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 317

167. Commissioner of police to inspector general of police (Sydney), March 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 91). The date is indistinct, but is either 5 or 6 March.

If we have to take Rua out by force I think it would be advisable to get twenty or thirty of these men sworn in as Special Constables and arrange for them to reach Maungapohatu via Waimana at same time as the force via Ruatahuna would reach there. If we accepted their services all matters . . . connected with them would have to be arranged beforehand.¹⁶⁸

Herdman minuted the correspondence the following day, 8 March, asking the commissioner to see him.¹⁶⁹

On 9 March, Cullen wrote a memorandum to the Minister:

In view of the probability of a body of police having to proceed to Maungapohatu to arrest Rua, the alleged Maori Prophet, who is wanted on warrants of commitment to prison, I beg to inform you that it would be necessary to arm a portion of the Force sent on this duty with rifles and the others with batons and automatic pistols.

Cullen had by now heard back from Sydney, and sought permission to obtain 50 automatic Colt pistols, 32 calibre, at £5 each, and 2,500 rounds of ammunition.¹⁷⁰

By at least 9 March, then, Cullen was discussing with Herdman plans for an armed police operation to arrest Rua at Maungapohatu. This was two days before Ngata reported back to Herdman, urging him to visit Rua to achieve a peaceful solution.¹⁷¹

And such a solution might still have been achieved. But whether the political will existed is doubtful. Herdman would later note (in a public statement made on 5 April justifying the police action at Maungapohatu) that he believed Rua was a 'law-breaker' who had 'defied the authorities', and had threatened violence when police tried to arrest him at Te Waiiti. 'Clearly the Crown was bound to see that the law was obeyed.'¹⁷² According to Binney, Herdman 'remained fixed in the belief that he was dealing with a belligerent rebel.'¹⁷³ Hill has suggested that the long hair of Rua's followers, his multiple wives, and his defiance of the liquor laws was offensive to 'the pakeha state and its societal norms.'¹⁷⁴ This, of course, might long have been considered to be the case. But, as we have noted, civil disobedience of any kind was not tolerated in war conditions.

The Crown, in our view, felt able to mount a substantial show of force against Rua in his own community because of the war it was fighting abroad. This was,

168. Superintendent to commissioner of police, 29 February 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 81)

169. Superintendent to commissioner of police, 29 February 1916, minuted by commissioner of police and the Minister of Police (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 81)

170. Commissioner of police to Minister of Police, 9 March 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 90)

171. Webster, *Rua and the Maori Millennium* (doc K1), p 241

172. 'The Arrest of Rua', *New Zealand Herald*, 5 April 1916, p 9

173. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 89

174. Hill, *The Iron Hand in the Velvet Glove*, p 382

first, because Ministers considered they had evidence of Rua's disloyalty – both his use of seditious language, and his opposition to recruitment – and secondly, because wartime offered the opportunity to take strong measures against those who were seen to oppose the war effort. We are in agreement with the Crown's broad point that the context of war should not be downplayed.

Its onset saw a significant curtailing of civil liberties in New Zealand. Wartime regulations provided for arrest without warrant of those suspected of 'having committed or of being about to commit any breach' of the regulations, or of acting or being about to act in 'a manner injurious to the public safety or the interests of His Majesty in respect to the present war'.¹⁷⁵ All those suspected of being 'enemy aliens' could be detained by the authorities, and hundreds were interred on Somes Island in Wellington Harbour and at Devonport in Auckland.¹⁷⁶ In addition, hundreds of conscientious objectors were imprisoned for up to two years, or longer if they still did not want to serve; some objectors were even sent forcibly overseas to fight and 'faced severe punishments'.¹⁷⁷ Powers to arrest those suspected of inhibiting the war effort were greatly increased under the War Regulations Act 1914, and the legal definition of sedition was broadened significantly.¹⁷⁸

Against this background the Government evidently hoped that Rua's opposition to recruitment, and his alleged statements favouring the Germans, could be used against him to good effect. New Zealand had a roughly 47,000 strong military force at the outbreak of the First World War, and non-compulsory recruitment was initially sufficient.¹⁷⁹ It was also decided to recruit 'native contingents' of Maori and Pacific peoples, the first of which sailed for Egypt in February 1915.¹⁸⁰ That month a recruiting committee was formally established for Tuhoë under Kereru's direction. Rua actively discouraged recruitment, preaching that the times of war were in the past.¹⁸¹ Police claimed that 'owing to Rua's ways it was practically impossible to get Maoris to enlist from his district'.¹⁸² But the feeling against Rua within the Government was similar to that directed against Waikato, where recruitment failed completely owing to King Tawhiao's injunctions, long observed, that they should not fight again, and to the strength of feeling in Waikato about the unaddressed grievance of the massive confiscations of the mid-1860s, following

175. Hill, *The Iron Hand in the Velvet Glove*, p 354; 'Order in Council setting out regulations under the War Regulations Act', 10 November 1914, *New Zealand Gazette*, 1914, no 2, p 4022

176. Hill, *The Iron Hand in the Velvet Glove*, pp 349–350

177. Mark Derby, 'Conscription, Conscientious Objection and Pacifism', Te Ara – The Encyclopedia of New Zealand, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/conscription-conscientious-objection-and-pacifism/2>, last modified 25 May 2012; Ministry for Culture and Heritage, 'Conscientious Objection in the First World War', Ministry for Culture and Heritage, <http://www.nzhistory.net.nz/war/first-world-war/conscientious-objection>, last modified 30 August 2012

178. Hill, *The Iron Hand in the Velvet Glove*, pp 351, 354

179. 'Compulsory Military Training: The First World War', in *The 1966 Encyclopaedia of New Zealand*, Te Ara – The Encyclopedia of New Zealand, <http://www.teara.govt.nz/en/1966/compulsory-military-training/3>, accessed 6 December 2012

180. Michael King, *Te Puea, A Biography* (Auckland: Hodder and Stoughton, 1977), p 81

181. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 83

182. 'Rua's Little Rest', *Auckland Star*, 29 January 1916, p 6

what was seen as the unjustified invasion of their lands.¹⁸³ According to Binney, Rua shared with Waikato a commitment to pacifism, based (in his case) on the Bible. Rua drew from the teachings of Te Kooti, and described the Maungapohatu community as a people of lasting peace. Yet, even though Rua was opposed to recruitment, he did not ban it, and even said that those who ‘wished to go to the war . . . were free to go.’¹⁸⁴

Binney considered that ‘Rua’s opposition to enlistment was distorted by popular rumour into an active support for the Germans’. He was rumoured to be arming his followers, to possess a machine gun and to favour a German victory.¹⁸⁵ Binney suggested:

Probably he did use the European war as an image of the end of the world in conflagration. Early in 1915, he had told Beryl Bressey and her family that he had built thrones for all the kings of the world at Maungapohatu, where they were to congregate for the Second Coming. One throne was for the Kaiser, and her father, Ernest, fairly new to the district, took the account literally, and spread the rumour the Rua was sympathetic to the Germans.¹⁸⁶

As we have seen, the *Auckland Star* reported in January 1916 that Rua ‘had been promising his followers a good time when New Zealand passed under German rule, which he assured them will be soon.’¹⁸⁷ Journalist and historian James Cowan claimed in a 1916 article for *Wide World Magazine* that Rua had prophesied a German victory, and that he was the Kaiser’s representative in New Zealand who intended ‘to drive the British away and restore to the Maoris all the lands.’¹⁸⁸ We think it unlikely that Rua had much appreciation at all of the way in which his defiant comments – certainly reflecting his marginalisation by this time – might be construed by the State. They were taken seriously, and recorded to be used against him in court; though their tone – as in Rua’s discussions with Grant and Cummings – suggests that he was aiming to do no more than irritate them.

17.6.4 Did rumours of Maori resistance justify the military-style expedition?

We refer finally in this section to rumours of Maori resistance at Maungapohatu. Were they such as to have justified Cullen in deciding that a large military-style expedition was necessary? Crown counsel stated that the Crown ‘clearly perceived

183. As a result, when the Government moved to extend conscription to Maori in June 1917, only Waikato–Maniapoto were in fact conscripted. The proclamation extending the Military Services Act to Maori was dated 26 June 1917. But the law was in fact applied only to the ‘Waikato–Maniapoto Land District’ which, as King noted, was the ‘only legal territorial definition the Government could devise that embraced Waikato tribes’: King, *Te Puea*, pp 77–78, 83–85.

184. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 83

185. *Ibid*, pp 82–83

186. *Ibid*, pp 83–84. Ernest Bressey was the school teacher at Te Whaiti.

187. ‘Rua’s Little Rest’, *Auckland Star*, 29 January 1916, p 6

188. James Cowan, ‘Rua the Prophet’, *Wide World Magazine*, vol 38 (1916), p 235 (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 84)

Rua as a considerable threat, but it pointed also to the fact that Rua ‘had no history of violence against the Crown.’¹⁸⁹ Given that he had no such history, why was he seen as a threat?

Binney argued that Cullen and Herdman acted on the basis of a fixed assumption of Rua’s ‘bellicosity’: they believed they would face armed resistance. She pointed to a petition sent to the Prime Minister by the chiefs Paora Kingi and Te Iwikino (with the assistance of Rua’s secretary, Te Makarini) which, she admitted ‘might seem to have given them cause to think so.’¹⁹⁰ The petition had been drawn up at a hui at Matahi two days after Dyer sentenced Rua to a second term of imprisonment (at the end of January), and was signed by 29 of the Iharaira, protesting that Rua was being repeatedly prosecuted for the same offences. The petition warned that if force was used to arrest Rua ‘then a “gun will be fired” (“Ka paku te pu”) . . . Although I be small, if needs be, I will face you.’ Binney says the statement was made ‘in traditional challenge.’¹⁹¹ Some of Rua’s followers had refused to sign this petition as they saw its wording as unduly provocative.¹⁹² Rua himself did not sign the petition and asked that it not be sent.¹⁹³

Certainly Cullen saw the petition as provocative, and he may also have been influenced by some of the rumours surrounding Rua’s possession of weapons.¹⁹⁴ The rumour that a bodyguard had been formed at the hui held at Matahi on 24 January was just one of many, as can be seen from this story from the *New Zealand Times*:

A story is in circulation among local Maoris that Rua is pretty well supplied with rifles and ammunition, obtained from Assyrian hawkers, who bought them casually in Auckland and smuggled them into the Urewera Country under their fancy goods and cloths. The story that Rua has a machine-gun is generally discredited.

Rua’s bodyguard is known to comprise several hundred Maoris and the local natives believe he will firmly resist arrest unless confronted by an overwhelming force, in which event he would take to the bush around Waikaremoana.¹⁹⁵

It is not surprising, in fact, that the people of Maungapohatu had guns. As one reporter noted, they used them for pigeon-shooting, and had ‘Winchester rifles’ for shooting wild cattle and pigs.¹⁹⁶

Police informants at the Waikaremoana Lake House painted a similar picture

189. Crown counsel, closing submissions (doc N20), topic 17, p 8

190. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 90

191. ‘Petition and Translation’, Lundon manuscript (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 88)

192. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 88. According to Webster, the petition was later used as evidence in the trial that there was a plan to ambush the police: Webster, *Rua and the Maori Millennium* (doc K1), p 265.

193. ‘The Trial of Rua’, *New Zealand Herald*, 4 July 1916, p 5

194. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 88, 112

195. ‘Pursuit of Rua’, *New Zealand Times*, 1 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 79)

196. ‘In Search of Rua’, *New Zealand Herald*, 3 April 1916, p 7

of resistance, reporting in late March that ‘Natives are passing to and fro continuously to Rua’s camp. They tell us Rua is going to fight.’¹⁹⁷ Cullen’s decision to take 70 armed police to approach Maungapohatu from three different directions indicates he may have accorded the rumours some weight. However, given that he enlisted a number of men along the way to Maungapohatu, his preparations also appear hurried and disorganised, and it is unclear whether he had taken advice from local police as to the size of the Maungapohatu community. He implied that he might meet a large number of armed men – in which case he proposed swearing in specials (a method he had used to great effect in confrontations with strikers in 1912–13). On 28 March, he wrote to the Minister of Police:

If after arriving at Mangapohatu I find that Rua has taken to the bush or has such a large body of men about him that my force would be inadequate to affect [*sic*] his arrest, I will send you a telegram asking that forty or more members of the Legion of Frontiersmen from about Opotiki be sworn in as special constables and directed to proceed to Mangapohatu to assist the police there. They should bring with them whatever firearms and ammunition they possess.¹⁹⁸

This suggests that Cullen would seek reinforcements rather late in the piece. He evidently anticipated that, with inexperienced men, his force might be engaged in a pursuit of Rua through the bush. In that case, however, what preparations had he made for a possible ambush, if he really believed Rua would offer stiff resistance? As the *New Zealand Herald* reporter pointed out, an ambush – even on their first approach to the pa – would have been easy:

A remarkable feature about the whole affair is that though the track to the stronghold runs through scrub and offers scores of chances for an ambush, and though the pa itself occupied a commanding position from which every man in the advancing force could have been picked out one by one and probably annihilated by marksmen hidden in the temple or in a dozen other places, nothing of the sort was attempted.¹⁹⁹

Perhaps, therefore, Cullen did not really believe that his force would face ambush.

17.6.5 Conclusions: the decision to send a large armed police force to Maungapohatu

The wartime ‘hysteria’ that generated overblown and absurd rumours of armed resistance at Maungapohatu undoubtedly helps to explain why the Minister of

197. General manager, Department of Tourist and Health Resorts to commissioner of police, 31 March 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p78)

198. Commissioner of police to Minister of Police 26 March 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p80). The Legion of Frontiersmen was a voluntary patriotic organisation founded after the South Africa War to uphold the British Empire and its values. It still has branches in Australia and New Zealand.

199. ‘Rua Resists Arrest’, *New Zealand Herald*, 4 April 1916, p9

Police and his commissioner considered that an armed police expedition was appropriate. But it does not justify it as a reasonable response in the circumstances, particularly when Rua sought further discussion with Ministers on the charges he faced. In the heightened moral climate of a country at war, Rua's resistance to arrest at Te Waiiti in February 1916, interpreted as resistance to the rule of law, and his reported comments in support of the German Kaiser, proved sufficient cause for a conservative Government to contemplate a show of force. Rua was also a prominent Maori leader whose teachings, in any case, did not sit well with the wider public. His defiance of the law gave Herdman and Cullen the opportunity to make an example of a man Cullen would later describe as 'a disturbing element [who played] on the superstition of his followers'.²⁰⁰ They were not prepared to talk to him, as past Ministers and officials had been; only to move against him.

It is most significant that the arrangements for the operation took place over some weeks, and that they received endorsement at the highest levels of Government. Although, on one level, Cullen's preparations were less than adequate, they also took shape over a relatively lengthy period. Furthermore, the lack of safeguards built into Cullen's planned operation, and his lack of concern for its potential consequences, must cast grave doubts on Cullen's diligence in apprising himself of the nature of the Maungapohatu community, or indeed on whether he took any notice at all of facts which must have been available to him. And yet this was not a course of action taken by Cullen alone: he had reported to Herdman throughout the period, and even travelled with him to Ruatahuna in mid-March. We consider it likely that they discussed the forthcoming police operation when Rua refused to give himself up, including the size and nature of the force that would be required.

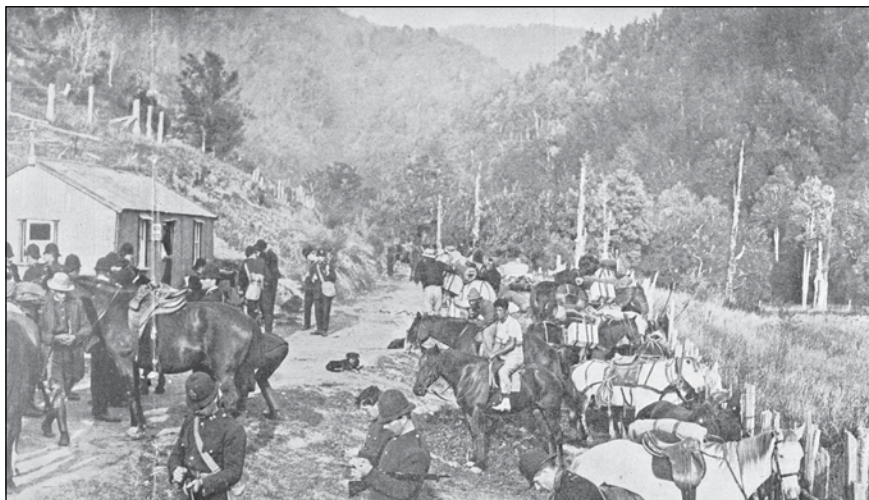
An overt display of the power of the State was both unnecessary and provocative. As it turned out, it would end in bloodshed.

17.7 DID THE POLICE BEHAVE FAIRLY AND REASONABLY AT MAUNGAPOHATU?

SUMMARY ANSWER: The police actions at Maungapohatu cannot be described as fair and reasonable, and the Crown accepts this. Although the Crown has made an important general concession, there are differences between the parties on matters of detail. We have already said we cannot resolve all of these differences, but we are able to draw conclusions on some matters in dispute. Three contingents of police converged on Maungapohatu, and the arrival of the first two small groups, and their engagement with Rua (who offered them hospitality), did not lead him to believe that anything was greatly amiss. But the arrival of the third group, the main force, which was disproportionately large, would spell disaster. It was poorly trained and led, and acted with undue force and little discipline. Cullen's riding his horse straight onto the marae caused confusion and immense offence. It foreshadowed his high-handed approach to this community, and was entirely inappropriate

200. 'The Trial of Rua,' *New Zealand Herald*, 22 June 1916, p 5

A N Breckon (5ccc, Auckland Libraries, 7-A3319)



Police officers being issued with guns and ammunition at Ruatahuna prior to arresting Rua Kenana, 1 April 1916. The large number of armed men sent to arrest Rua was seemingly disproportionate to both the charges he faced and the threat he presented. Nevertheless, the heightened wartime atmosphere, coupled with reports of Rua's seditious remarks, saw the police assemble a formidable force for the expedition to Maungapohatu.

in this tense situation. It seems to have been designed to offend and provoke. Rua expected to receive the police and talk with them; Cullen expected to arrest Rua without further ado. It does not seem that he took any care to avoid bloodshed.

Varying accounts were given later as to who fired the first shot; but the point really is that the situation created by Cullen became highly volatile very quickly, and exchanges of gunfire took place. At this distance in time it cannot be found that Toko Rua (Rua's son) or Te Maipi were executed by police, but the circumstances surrounding their deaths give cause for grave concern. In the aftermath of the exchange of gunfire, the deaths of two young men, and Rua's arrest, the police occupied Maungapohatu for three days, waiting until their wounded were recovered sufficiently to travel. This may have been an unavoidable decision, but an occupation in such circumstances would leave its own bitter memories. The people recollect the ill-treatment of women and children, who felt threatened and were kept without bedding for at least part of that time, and of the abuse of women. We may not feel confident in asserting that rape occurred, but we cannot say that it did not. The evidence strongly indicates that some police stole goods from the kainga during the occupation. The police expedition was poorly planned, poorly judged, and quite unwarranted.

17.7.1 Introduction

The police actions from the time they arrived at Maungapohatu on 2 April have been a source of deep pain to the community, and to Tuhoe, ever since. The Crown



Police at Ruatahuna, on their way to Maungapohatu to arrest Rua, April 1916

has made a series of concessions in relation to this issue. It accepted that excessive force was used in Rua's arrest and that the arrest was not lawfully executed, being on a Sunday.²⁰¹ It also accepted that 'notwithstanding rumours to the contrary, Rua instructed his people not to resist.'²⁰² Crown counsel expressed concern about 'the way the expedition to arrest him was conducted, the fact that the constables were heavily armed yet ill prepared for the events that occurred, and the danger posed to the wider Maungapohatu community and themselves.'²⁰³

The Crown conceded that it breached the principles of the Treaty of Waitangi 'by not acting in a reasonable manner towards the Maungapohatu community in the actions that were taken in the arrest of Rua Kenana.'²⁰⁴ We welcome these concessions, which are very properly made. Yet, beyond the statement that the Crown used 'excessive' force, counsel did not detail which of the actions were not reasonable, and why. For this reason, we provide our analysis of events at the marae. In addition, several outstanding issues remain, among them those of most distress to the community, which occurred either during the exchanges of fire that took place, or during the police occupation that followed, over the following three days. We refer particularly to the killing of Toko Rua (Rua's son), and the alleged rape of women by the police. Because the evidence relating to these matters is contested, we cannot – at this distance from events – make specific findings on them. But in our next section we make strong Treaty findings on the Crown's reckless conduct of the invasion, which had such tragic outcomes.

201. Crown counsel, closing submissions (doc N20), topic 17, p 9. Executing an arrest warrant on a Sunday was illegal under the Justices of the Peace Act 1908, s 363, except for a narrow range of crimes.

202. Crown counsel, closing submissions (doc N20), topic 17, p 8

203. Ibid, p 13

204. Ibid

Auckland Weekly News (Bridget Williams Books Ltd)



The armed police expedition sets off to Maungapohatu to arrest Rua, April 1916

17.7.2 Conflicting accounts of the police arrival at Maungapohatu, 2 April 1916

Three contingents of police regulars were organised to converge on Maungapohatu. The first to arrive at the settlement, at about 8 am on Sunday 2 April, was a group of three police from Whakatane – constables Timothy Cummings, Te Kepa, and James Blakeley. They were greeted in a friendly manner, given a cup of tea, and shown around the settlement.²⁰⁵ Rua and his two sons, Whatu and Toko, were all wearing riding breeches, white shirts with stand-up linen collars, and red ties. The second party of eight police from Gisborne arrived about 10 am, and were also greeted cordially.²⁰⁶ A hakari was being prepared. There were 48 men present at Maungapohatu, and many women and children.²⁰⁷ Rua asked Cummings to arrange a meeting with Cullen before the main body of 57 police arrived. Cullen had earlier ordered the latter group to load their weapons (20 .303 rifles and 30 to 40 service revolvers), and he took no notice of Rua's request, conveyed to him by Cummings, for a meeting. Rua, waiting, went over to those of his followers sitting nearby, stooped down, and spoke to them; later it emerged that he had told them that if he was arrested, they must not interfere. Then he returned and stood beside his flagpole on which his flag *Kotahi Te Ture* was hoisted, as a 'sign of peace'.²⁰⁸ Cullen arrived, and rode onto the marae, ignoring tikanga, straight towards Rua. He had with him men who could have advised him of the expected protocol, and we conclude from his actions that he intended confrontation at some level. Still mounted, he beckoned to Rua to come forward; then called out 'Haere mai'.²⁰⁹ One of the Gisborne police, Gerald Maloney, stated that 'Rua never thought the police would march right up to the marae and arrest him out of hand. He would expect the police leader (Commissioner Cullen) to come up first with one or two of his officers, as was the usual Maori custom, and have a long 'korero' over the matter first.'²¹⁰

There are varying versions as to what happened next; Binney described the evidence given at Rua's subsequent trial as 'riddled with contradictions', with 'manipulation of evidence . . . on both sides'. In her view, the 'least reliable witnesses' were those on the Crown's side; their evidence appeared 'structured'.²¹¹ But it seems that two armed and mounted constables suddenly appeared over the edge of the marae. Rua was understandably startled by the advancing group and tried to move

205. Webster, *Rua and the Maori Millennium* (doc K1), pp 243–245; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 96–97

206. Webster, *Rua and the Maori Millennium* (doc K1), pp 245–246

207. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 116

208. *Ibid*, p 98

209. Webster, *Rua and the Maori Millennium* (doc K1), pp 243, 246; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 95–99

210. Gerald Maloney, 'The Rua Expedition', *Whakatane Historical Review*, vol 11, no 2 (June 1963), p 66 (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 99)

211. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 98. Binney states that the actual trial documents were destroyed, along with all the early criminal records of the Auckland Supreme Court, in 1949. Newspaper reports are therefore the only public sources, though she and her co-authors were given access to the private papers of Rua's defence counsel, Jerry Lundon.



Posed reconstruction of armed police taking up positions during the raid on Maungapohatu, 2 April 1916. The police party had received little instruction about what to do in the event the arrest turned violent; police actions during the exchange of shots between police and Rua's men were marked by ill-discipline and a lack of coordination.

away before being set upon by several police, one of whom accidentally tore a sleeve from his shirt. General confused fighting ensued as some went to Rua's aid. One constable dropped the axe he was carrying, which was picked up by Whatu, Rua's eldest son, who (by some accounts) threatened the constable with it. He was thrown to the ground, and handcuffed. Cullen ordered Rua (who had fallen down the bank between two of the kitchens), to be frogmarched up onto the marae.²¹²

It was at this point that a shot was fired and the police scattered. It has never been established who fired the first shot, as is often the case in such situations. According to the police, it was fired by a Maori (variously identified as Toko, Rua's son, or the elderly Paora Kingi); the Maori witnesses accused Constable Arthur Skinner of firing it.²¹³ The point really is that the situation created by Cullen became volatile very quickly, and there were exchanges of gunfire. The

212. Webster, *Rua and the Maori Millennium* (doc K1), pp 246–248; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 99–102

213. Binney stated that this was a 'concoction', later exposed at the perjury trials in 1917. She stated that Lundon singled out Skinner as having fired the shot because of his reputation (the two men were old adversaries from the Waihi strike). She added that Lundon's eldest son had told them that he decided to name Skinner (though he did not know who fired the shot) because he wanted to break down the police account that a planned ambush awaited them: 'it was the Maori accounts of the death of Toko Rua which persuaded his father that the police version of events was a tissue of lies', and that this was the basis of Lundon's 'calculated perjury'. Binney considered Lundon's decision 'an error of great magnitude': Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 102–104.



AN Breckon (SCGSC, Auckland Libraries, 7-A3322)

Rua, his head bandaged, and his eldest son, Whatu, in handcuffs, flanked by two policemen shortly after their arrest

police column, still winding its way up to the marae, broke ranks, and a number were alleged to have recklessly put themselves at risk by running into the line of fire. This underlines the lack of instruction given to the police party as to how to act in the event of gunfire, and the resulting ill discipline in the police response. Tom Collins of the Auckland police, whom Binney interviewed in the 1970s, and another constable, wondered how they were supposed to proceed, since they had heard from the Whakatane police two days earlier that Rua 'had no intention of resisting arrest'. 'We should know what we are doing', constable Jim McIntyre said

to him.’²¹⁴ George Rushton, in his deposition, stated that ‘No one waited for orders everyone sailed for anyone he could get.’²¹⁵

General firing began and carried on for anything from ‘a few minutes’ to 30 minutes; the reports differ substantially.²¹⁶ An account given in evidence by Constable Grant at the trial indicates that firing must certainly have been longer than ‘a few minutes’:

The Commissioner asked me to tell accused [Rua] to sing out to Toko Rua to come back and the shooting would stop Rua said to me ‘You sing out yourself. You can sing out as loud as I can’ I again asked him to sing out because Toko would understand his voice better than mine. I asked him again and he did call out. Three or four minutes would elapse before he did call out. When he did call out Toko was too far away to be within hearing. Firing was going on all the while and for a good while after accused called out . . . I should say there would be about 8 or 10 guns discharged by the natives. It was hard to tell. I could not tell what amount of firing was going on beyond the junction of the track.²¹⁷

Several women sat keening under the mahau of the meeting house.²¹⁸

Firing was eventually halted when Rua sent out several women (with Cullen’s permission), who walked slowly from the marae, and up the track beside the gully, calling to the men to return. As they did so, the firing died away.²¹⁹ When it was over, two young men, Toko and Te Maipi Te Whiu, were dead. (We discuss the circumstances in which they were killed below.)

The official police version was that an ambush had been laid for them.²²⁰ The Crown, before us, noted the concerns raised by Binney and Webster about some of the methods police may have used to construct their case against Rua and his followers.²²¹ It was argued that Rua called out, as he was being frogmarched to the marae, ‘Patua, Patua!’ – a command, the police said, to strike or kill – the signal to attack. This was not believed by the jury; they also heard evidence from the defence, who brought evidence of Maori speakers that the words ‘could only have been part of the cry of despair, “Kill me, kill me” – “Patua au”, “Patua au kia mate”’.²²²

It seems to us that it would be very difficult to sustain the ambush theory. The possibility of a planned ambush was disputed by two former policemen, Tom

214. Tom Collins (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p96)

215. George Rushton (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 105)

216. Some police witnesses spoke of a gap of 10 or more minutes between the first shot and further shots.

217. Grant, testimony, no date (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p381)

218. ‘The Maori “Prophet”’, *Auckland Weekly News*, 13 April 1916, p17

219. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 112

220. *Ibid*, pp112–113

221. Crown counsel, final statement of response (statement of response 1.3.2), sec T, pt 2, p T98

222. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 111–112

Collins and Arnold Butterworth, whom Binney interviewed for her research in the 1970s. They recalled that all the Maori visible on the marae appeared unarmed, and only three or four were seen to grab weapons at any stage.²²³ A later search of all the dwellings in the area revealed 32 assorted unloaded firearms that were removed as evidence. These were never claimed back – perhaps because the majority were, in the words of a police inspector some seven years later, ‘broken and useless.’²²⁴ Many, Binney stated, were not loaded and were for hunting.²²⁵

There are other factors, too, that point to an ambush being very unlikely. First, the *Herald* reporter, as we have seen, pointed out that the police column could have been ambushed most effectively as it wound up the hill to the marae, offering a perfect target. It would have made little sense to wait until the police were in a much better position. Secondly, Rua would hardly have welcomed the earlier groups of police as warmly as he did if he was planning an attack. Thirdly, the women (some of whom were pregnant) and children would not have been present. Kirituia Tumarae told us that there were many children present, as many as 50, when the police attacked; seven were only two years old.²²⁶ Pinepine (Rua’s senior wife) found herself in the awful position of trying to protect three of her children at once: she had to leave her son Toko (who had been shot, as we discuss below), and even a younger daughter, to run to hide her youngest child, Pera.²²⁷ Peter Webster recorded that those he spoke to who were children at the time told him that the noise of the gunfire was deafening: ‘The surrounding mountains echoed and re-echoed the din, and they said that they were absolutely terrified.’²²⁸ The reporter present referred to the plight of the children at the pa, ‘scampering here and there . . . all holding up their hands in token of surrender.’²²⁹

Finally, Butterworth, who travelled with the Gisborne contingent, told Binney

223. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p105

224. Inspector to the commissioner of police, 14 September 1923 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p121). The fact that the arms were never claimed is indicated by this and other police memos: commissioner of police to superintendent of police, 23 July 1917 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p122); Crown solicitor to superintendent of police, 20 July 1917 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p123); superintendent of police to commissioner of police, 20 October 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p124); inspector to commissioner of police, 7 August 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p125); ‘Report of Sergeant’, 4 August 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p126). A complete list of the arms is contained in ‘Report of Sergeant GG Kelly’, 13 October 1936 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p130).

225. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p116. The *Herald* reporter, referring (before reaching the marae) to the supposed possession of firearms by the people there, commented they were used for pigeon shooting and for hunting wild cattle and pigs: ‘In Search of Rua’, *New Zealand Herald*, 3 April 1916, p7.

226. Kirituia Tumarae, oral evidence, hearing week 11, 14 February 2005

227. Kirituia Tumarae, brief of evidence, 14 February 2005 (doc K21), p6

228. Webster, *Rua and the Maori Millennium* (doc K1), p250

229. ‘When Rua was Taken’, *New Zealand Herald*, 8 April 1916, p9 (Webster, *Rua and the Maori Millennium* (doc K1), p250)

that there were police attempts to distort the evidence, to cover up the fact that they had mounted an assault on people who were certainly not themselves planning one.²³⁰ In his words: ‘Rua didn’t resist at all. It was an illegal arrest [being on a Sunday], and he didn’t resist either. He was attacked.’²³¹

17.7.3 Conflicting accounts of the deaths of Toko Rua and Te Maipi

There remains considerable controversy over the circumstances in which Rua’s son Toko was killed; nor are the circumstances in which Te Maipi was shot totally clear. Crown counsel noted in closing submissions simply that the evidence was ‘contested’,²³² and that is so. Te Atamira Tumarae described these deaths to the Tribunal as ‘he kohuru’ (murder).²³³ Three of the people were wounded, one of them the old chief Paora Kingi, shot through the back by a .303 (although other accounts said he was shot through the shoulder).²³⁴ Webster analysed carefully the circumstances in which Toko and Te Maipi were killed, relying on police depositions and evidence, statements of the surgeon who accompanied the police, and some oral sources, as well as newspaper reports of the trial.²³⁵ He concluded that although there was no doubt that both Toko and Te Maipi were firing at the police at one stage, it seemed ‘quite unnecessary to have killed them, for at the time they had retired from the engagement.’²³⁶ Binney also cited evidence that the two young men need not have died, giving weight to oral sources as well as court transcripts, in particular the evidence of Tom Collins, one of the Auckland police.²³⁷

It appears that Toko was standing near Rua when he was arrested. Toko fled and ‘probably’ collected a double-barrelled shotgun from his father’s house and fired at police from a nearby paddock. Police fired back. Some went to assist those struggling with Rua and Whatu; others, according to Webster, doubled back along the road towards the top of the settlement, drawing Maori fire from a nearby gully; they stopped to exchange fire. Other police went even further up the road where they too encountered Maori fire.²³⁸ Toko was eventually hit in the right arm. According to the army surgeon, Brewster, he sustained a severe bullet wound to his arm, which fractured both bones and severed both arteries; it shattered his forearm.²³⁹ Webster concluded from the army surgeon’s report that ‘it

230. Butterworth was given a prepared statement to sign by Senior Sergeant Cassells, but refused to sign it, tearing it up in front of Cassells because the part he read was untruthful: Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p107.

231. Butterworth (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p106)

232. Crown counsel, closing submissions (doc N20), topic 17, p 9

233. Te Atamira Tumarae, brief of evidence, 14 February 2005 (doc K6), p7. Te Atamira Tumarae is a direct descendent of Rua Kenana, as outlined in her brief, page 3.

234. Peter Webster, summary of evidence for *Rua and the Maori Millennium*, 22 December 2004 (doc K2), p16

235. Webster, *Rua and the Maori Millennium* (doc K1), pp 249–256

236. *Ibid*, p 249

237. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp105, 109

238. Webster, *Rua and the Maori Millennium* (doc K1), p 250

239. *Ibid*, pp 249–252

is highly unlikely that Toko was able to take any offensive action after receiving such a wound.²⁴⁰ He went on to describe a confrontation featuring three constables – Rushton, Maloney, and Rogers – who had decided to ‘follow up’ Toko and Te Maipi. Toko had taken refuge under a small whare, and Te Maipi and an unidentified Maori in a red shirt (according to several police witnesses) remained close to him. Te Maipi picked up Toko’s shotgun, and was probably guarding him. Rushton stated that he called on them to surrender; Te Maipi and Toko, with a further companion, fired at them until he was compelled to return the fire in his own defence. The shots fired by all three constables killed the two young men.²⁴¹

Because of the nature of Toko’s arm wound, Webster dismissed police evidence that he fired at the pursuing police with a pistol in his left hand.²⁴² He was ‘in a very weak and shocked state’, according to Maori informants and evidence given at the trial.²⁴³ Webster allowed that the police may have had to fire at Te Maipi in self-defence (a shotgun was found beneath his body), but medical evidence indicated that the shot that killed Te Maipi hit him in the back of the head, and the shotgun he was carrying was found to have been jammed. Webster concludes from this that he may have been fleeing when shot, being no longer able to use his weapon.²⁴⁴

The army surgeon’s statement, in Webster’s view, suggested that one of Toko’s three gunshot wounds may have been inflicted from behind; two bullets entered his chest.²⁴⁵ No weapon was found with his body, although police accounts suggest that the unidentified red-shirted man who fled may have retrieved a pistol.²⁴⁶ Binney reported accounts, firmly believed ‘by all the people of Rua’, that after Pinepine had to leave Toko, he had been dragged out by his feet and shot in the back. Pinepine, who had bandaged Toko to stop the bleeding from his arm, saw the third wound only later; and Waereti, a wife of Rua, said she witnessed the shooting. The medical evidence, Binney said, seemed to contradict her account. But then there were problems with it, too, given that the surgeon could not be in court, and that there had been no inquest.²⁴⁷ In addition, Rua’s son in law, Benjamin (Tori) Biddle, made a statement to police later that Waereti had altered her account, and that he had been present when other women decided to support her story at the trial by giving it as their own, in conjunction with the defence counsel.²⁴⁸ However, even if this was so – and Binney states that the ‘confessions’ were not accepted by the Maungapohatu people – it remains the case that Toko appears to have been killed while too badly wounded to offer serious

240. Webster, *Rua and the Maori Millennium* (doc K1), p 252

241. *Ibid*, pp 252–253

242. *Ibid*

243. *Ibid*, p 252

244. *Ibid*, pp 255–256

245. *Ibid*, pp 254–255

246. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 108–109

247. *Ibid*, p 110

248. Benjamin Biddle, statement, 9 December 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 195); Webster, *Rua and the Maori Millennium* (doc K1), p 256

resistance. Binney stated that the people sustained an ‘unwavering commitment’ to the account they knew of Toko’s death.²⁴⁹

In Binney’s broad account of events, Tom Collins and another constable, Neil, went after the ‘two boys’, but Neil was shot as he was about to fire. Toko and Te Maipi were then seen running towards the large building, Hiruharama Hou. It was at that moment that the police column, still on the track below the meeting house, ‘broke ranks and poured over the bank onto the marae and into the paddock . . . which brought some of the men directly into Toko’s line of fire.’²⁵⁰ In fact, they were ordered to break ranks by their sergeant – a stupid decision, in Collins’ view, which cost the young men their lives. Collins had been joined by another officer who now had to fire at them to save the police running heedlessly into the line of fire from the shotgun. But by this account their deaths, plus the injuries sustained by some of the police, might have been avoided if the police column had maintained its formation and discipline.²⁵¹ Collins claimed that there had been a cover-up, essentially, of the fact that the police had broken formation – a decisive error which had a terrible outcome.²⁵²

The situation was made more suspicious by Cullen’s decision not to bring the bodies out for a coroner’s inquest, something that the coroner (Dyer) thought highly irregular.²⁵³ Crown counsel submitted that the coroner was unable to give a verdict because he did not have access to the bodies.²⁵⁴ But matters were not so straightforward. Cullen had evidently indicated to Dyer that he thought an inquest unnecessary, which led Dyer to send a telegram to the Attorney-General, Alexander Herdman.²⁵⁵ An exchange of telegrams followed. On 3 April, Dyer wrote to Cullen, asking that the men’s bodies be brought to Ruatahuna so that they could be brought by car to Rotorua, but added ‘if not arrange my going in from Ruatahuna’ – evidently an offer to come to Maungapohatu himself.²⁵⁶ But on 4 April, Dyer wrote to the Attorney-General stating that Cullen had ‘allowed relatives take charge of bodies as impossible to bring them in for inquest.’²⁵⁷ In fact, the two young men had been buried either on the afternoon of 3 April or the morning of 4 April. The *Auckland Weekly News* reported that it was 4 April, and that the police lined up, standing at attention, and saluted.²⁵⁸ Binney stated that there were

249. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 111

250. *Ibid*, pp 105, 109

251. *Ibid*, p 105

252. *Ibid*, pp 105, 109

253. *Ibid*, p 110

254. Crown counsel, closing submissions (doc N20), topic 17, p 9

255. RW Dyer to Attorney-General, 4 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 74)

256. RW Dyer to commissioner of police, 3 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 72)

257. RW Dyer to Attorney-General, 4 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 74)

258. ‘Another Maori Comes In’, *Auckland Weekly News*, 13 April 1916, p 17

'no coffins' and no tangi, due to the 'great haste displayed' by the commissioner.²⁵⁹ We have not had access to Binney's evidence in this regard, as it was based on the Lndon papers, which are held privately.

It is possible that Cullen's refusal to bring out the bodies may have been for practical reasons, but this seems an unlikely explanation given Dyer's offers of flexible arrangements. But once the burials had taken place, Dyer was unable to hold an inquest. Herdman's view was that it was 'advisable' to hold an inquest, unless it was impossible for him to examine the bodies of those who had been killed.²⁶⁰ And by 4 April, it was impossible. Dyer therefore had to resort to cross-examining the army surgeon, Dr Brewster, who had accompanied the expedition and produced a written report after examining the bodies.²⁶¹ This left the police heavily dependent on Brewster's testimony regarding the deaths. Brewster, about to depart for service in Europe, was understandably reluctant to spend precious leave days testifying in court. Cullen therefore tried to have him subpoenaed, which proved fruitless as Brewster's ship departed early.²⁶² Brewster's departure left the police vulnerable to allegations they had prevented him appearing, and Cullen therefore found a witness who would testify that he had actually left the country.²⁶³ Dyer decided not to ask for an exhumation. It is small wonder that most of the jury called for a proper inquest into the deaths.²⁶⁴

The conclusions of Webster and Binney, who both looked carefully at the evidence relating to the killings of Toko and Te Maipi, are important. Neither disputed that Toko fired on police before they retaliated. Binney appears to accept that Te Maipi was shot in the head in an exchange of fire with police; Webster was not satisfied with the explanation of police at the trial as to how Te Maipi had in fact been shot in the back of the head. Neither was able to confirm claims that Toko was summarily executed, although neither discounts the possibility. Webster concluded it is likely the two were killed by police in anger, to avenge the injuries sustained by some of their colleagues.²⁶⁵ Both were told by a number of informants at Maungapohatu 40 years and more ago that Toko had been dragged out from

259. RW Dyer to Attorney-General, 4 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 74); Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 111

260. Herdman to Dyer, 4 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 73)

261. Webster, *Rua and the Maori Millennium* (doc K1), pp 251–252, 254; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 110

262. Commissioner of police to Crown solicitor, 18 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 55); Carrington to commissioner of police, 18 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 56); commissioner of police to Doctor Brewster, 17 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 57); Brewster to commissioner of police, 17 April 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 58)

263. Inspector to commissioner of police, 6 May 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 229)

264. 'The Rua Trial', *Auckland Star*, 7 August 1916, p 6 (Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 127; Webster, *Rua and the Maori Millennium* (doc K1), p 267)

265. Webster, *Rua and the Maori Millennium* (doc K1), p 260

under the whare where he sheltered, and was shot. Despite the lack of conclusive evidence, on balance it is hard to avoid Webster's conclusion that the police had 'something serious and damaging to hide' in relation to Toko's death. However, this conclusion falls short of accepting that Toko was executed by police.

At our hearing at Maungapohatu, forceful evidence was given by kaumatua Aubrey Tokawhakea Temara on the events that day:

Memories do not fade where atrocities are burned into the mind even if the bearers of the memories are third generation descendants. Much has already been written and presented by the technical witnesses and I leave them to the scholarship of their research and their presentations. All I need say is that I support their findings with this one rider: that of my antecedents who have never swayed from their view of the perpetrators 'that the Police fired the first shot'.

Our koroua and kuia have always maintained that the police fired the first shot and mayhem broke out after that. As well our koroua and kuia have always said that Toko was killed in cold blood after being dragged by the legs, face down, from underneath the house.

This was confirmed by eye-witnesses Horopapera Tatu and Tiripou Haerewa at a Tuhoë Wananga here in Tanenuiarangi in March 1970 which I attended.²⁶⁶

17.7.4 The subsequent police occupation of Maungapohatu, 2–5 April

The end of the firing heralded the start of a new phase in the police action: the rounding up of the people, the initial arrest of most of the men, the treatment of the wounded, and the police occupation of Maungapohatu, which would last for three days, until the morning of 5 April. It was evidently decided at the outset that the police would remain at the settlement until the wounded police were well enough to travel, which would be for three or four days. One policeman was seriously wounded.

The police began by searching the houses. Rua's own house, Hiruharama Hou, was searched in case 'some of the attacking party' were inside. The house was surrounded, the door broken in, and those inside called upon to come out. 'Only Rua's nine wives and several children' appeared.²⁶⁷ The women were brought from the house at gunpoint; the photographs show them together in a group and, as Binney, stated, a policeman with a revolver in hand standing guard.²⁶⁸ Te Akakura Ru (Rua's favourite wife) testified later that the police called into the house that 'If you don't come we will shoot you'. They took the women down to the marae at gunpoint, walking both behind and beside them. She was 'very frightened' then, for all the police 'presented' their guns.²⁶⁹ According to the *Weekly News* reporter, Rua's wives would not enter the house again after the police had set foot in there: 'all through the night and the early morning fog they sat on the grass outside the

266. Aubrey Tokawhakea Temara, brief of evidence, 16 February 2005 (doc K15), pp 4–5

267. 'Rua Resists Arrest', *New Zealand Herald*, 4 April 1916, p 9

268. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 114–115

269. 'Rua's Wives', *Auckland Star*, 1 July 1916, p 6



Unknown (SCGSC, Auckland Libraries, 7-A3791)

Rua's wives and children being escorted from Hiruharama Hou under police guard. Led away at gunpoint, they were barred from re-entering the house and were forced to sleep outdoors without blankets or mats.

fence, silent and desolate.²⁷⁰ Rua's wife Wairimu, re-examined at Rua's trial, stated that the police left the women to sleep out of doors 'like so many dogs without covering or mats.' Asked why they did not complain, she 'scornfully replied that they were determined not to ask any favours of the people who had killed one of their number.'²⁷¹ The wounded men, one Maori (Heripo Kaata, who was badly wounded) and four police (two seriously hurt), spent the night in the meeting house; Rua and his son Whatu slept there, handcuffed together, as were seven other men cuffed and held prisoner.²⁷² A strong guard was placed around the pa, and changed at frequent intervals.²⁷³ On 4 April, Paora Kingi, who was wounded, came back to the settlement and gave himself up.²⁷⁴ Thirty men were arrested on the day of the shooting; some were released on each of the following days.²⁷⁵

The occupation led to allegations that police stole goods while staying at Maungapohatu. These were made in court, though they were challenged and were not sustained.²⁷⁶ The Crown did not respond to the allegations on the grounds of insufficient information.²⁷⁷ But there seems clear evidence that police stole

270. 'The Maori "Prophet"', *Auckland Weekly News*, 13 April 1916, p 17

271. 'Wives Galore', *Auckland Star*, 10 July 1916, p 6

272. 'The Maori "Prophet"', *Auckland Weekly News*, 13 April 1916, p 17

273. Ibid; 'Rua Resists Arrest', *New Zealand Herald*, 4 April 1916, p 9

274. 'The Maori "Prophet"', *Auckland Weekly News*, 13 April 1916, p 17

275. 'The Rua Trial', *Auckland Star*, 13 June 1916, p 6

276. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 118

277. Crown counsel, final statement of response (statement of response 1.3.2), sec T, pt 2, p T95



Women and children sitting together following Rua's arrest. Significant numbers of women and children were present at the marae during the exchange of shots between the police and Rua's men. Judith Binney identified some of those shown here: Kumeroa Te Rika, Pinepine's sister and Teka's wife, is on the left wearing a headscarf; to her right, with plaited hair and wearing a dark blouse, is Wairimu. The little girl with plaits is Tangi, Rua and Pinepine's daughter; beside her, in front, is Whakaataata. To the right, wearing a large neck scarf, is Te Arani, wife of Rua.

pounamu taonga, at least one substantial sum of money, and possessions during the occupation of Maungapohatu. According to Binney, a list of such possessions alleged to have been stolen is included in the Lundon papers. One of the former police interviewed by Binney confirmed that pilfering had occurred, including the theft of money. Indeed, one constable confessed at the time and was suspended, later being forced to resign from the force.²⁷⁸ Tutakangahau complained of the thefts when visiting Education Department officials in 1916.²⁷⁹

The most contentious allegation made by claimants, and denied by the Crown, was that police raped some of the women during their occupation of Maungapohatu. Kirituia Tumarae told the Tribunal that 'according to the stories', Rua's daughter Whakaataata (Mere Tukua) and his wives Wairimu and Waereti were raped, or at least mistreated ('te tukino hia o nga wahine'). Nga waiata a Te Rua ('the songs of Rua') were cited in support of this allegation.²⁸⁰ Two other claimant witnesses also spoke of the rape stories.²⁸¹ The claimant counsel quoted one of the waiata composed by Rua while in prison as evidence that rape had occurred. The waiata *Taura Whiu Kau*, with its translation, is set out over.

278. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 117–118

279. Tutakangahau, interview, 9 August 1916, p 1 (Brian Murton, comp, supporting papers to 'The Crown and the Peoples of Te Urewera, 1860–2000: The Economic and Social Experience of a People', various dates (doc H12(a)(U)), p 29)

280. Tumarae, brief of evidence (doc K21), p 6

281. The other witnesses were Te Atamira Tumarae, Kirituia Tumarae's granddaughter, and Pateriki Orupe: see Tumarae, brief of evidence (doc K6), p 7; Pateriki Orupe, brief of evidence, 14 February 2005 (doc K11), p 4.

Taura Whiu Kau: Rua's Waiata Composed in Prison

*Kaore te whakama ki te taura whiu kau
 I kitea e au he karauna kingi ka u ki Maungapohatu
 Mekameka i aku ringa ka pai e te iwi ka ea nga karaipiture
 Nuku mai e te tikanga hai hoa moe ake
 Kia au ake ai taku moe i te whare i i*

*Takiri mai ko te ata ka puta atu ki waho
 Ka titiro noa atu ki waho i te moana
 E tatari atu ana i te ope o nga Anahera
 I waiho ai au hai maungarongo
 Te pau te tanga mai i te Raiti weera i i*

*E muri ahiahi takoto ki te moenga
 Ka haramai te aroha ki aku tamariki
 Paia mai nga rongongohou e Mere
 He teke mawhero ki rau o te tangata
 Waiho atu e hine hai whenua reti
 Kati au ka huri ka rau maewa noa i i*

*Void of shame to use a cow lasso
 Permeating my sight is the badge of the King ascending Maungapohatu
 Although my hands are locked in chains, the people know the scriptures have spoken
 These introduced customs must be moved aside
 To caress my sleep within this sanctuary*

*When the dawn is finally released
 I emerged outside and gazed at the open expanse of the ocean
 Where the assembly of Angels awaits
 Who left me as a martyr of peace
 Whose light is consumed as that of a lighthouse*

*I lie in bed as the dusk descends
 My love for my children advances towards me
 The news concerning Mere has arrived
 Where your vagina was reddened by the gang rape
 Alas my dear put the land aside to be rented
 Enough said, my vision for prosperity will be everlasting¹*

1. Counsel for Nga Rauru o Nga Potiki, closing submissions, 3 June 2005 (doc N14), p 321



Kirituia Tumarae, a direct descendant of the rangatira Tamaikoha. Ms Tumarae gave evidence at the Maungapohatu hearing about the trampling of the mana of Tamakaimoana women during the police occupation.

Peter Webster testified that none of the informants he interviewed in the 1960s mentioned the rape allegations.²⁸² However, Webster qualified his response by saying that this was a subject that probably would not have been openly discussed at the time. Judith Binney, in a written response, also said that none of her informants in the 1970s had mentioned these allegations:

I think that some of the women with whom I spoke would have raised the matter of rape with me (as a woman), most notably Te Akakura Rua [one of Rua's daughters], who was always forthright. She spoke to me about sexual violence within Rua's family. She also spoke, as did her sister, Putiputi Onekawa, about the police thefts at Maungapohatu in 1916 (as did Tom Collins). There is documentary evidence concerning the police thefts in the Lundon papers, the private papers of Rua's defence counsel. There is no evidence that I can recall concerning rape in these papers.²⁸³

282. Webster was responding to questions at the Tribunal hearing, but there is no official transcript of his evidence. Binney accurately paraphrases Webster's answers in her written response to Crown questions: Judith Binney, response to questions of clarification from the Crown, 22 April 2005 (doc K31), p 1.

283. Binney, response to questions of clarification (doc K31), pp 1-2

But we do give weight to the forceful language of Rua's waiata, a lament composed while he was in prison; and to the term 'tukinohia' used by Kirituia Tumarae.

One published account from 1916 mentions mistreatment of the women by police. This came from Tutakangahau who, since 1913, had been lobbying the Department of Education to establish a school at Maungapohatu. After visiting the department in Wellington in September 1916, he was reported as speaking in defence of Rua and condemning the police actions:

When I say they illtreated the women, I explain my meaning by stating that it was downright cruelty to the Maori women and children to herd them into one house for three days and nights without providing them with garments and bedding, seeing that there was an abundance of those things (their own) in the village nearby.²⁸⁴

This claim of mistreatment made in 1916 involved alleged actions that did not hint at rape. It is true that there appears to be no documentary evidence (as the Crown emphasised²⁸⁵), or contemporary oral evidence to support the rape allegations. But nevertheless – in light of Rua's waiata, and of statements made at our hearing – we do not dismiss the allegations. They are based on memories that are sincerely held. We cannot determine so long after the events on 1916 that rape occurred, but we cannot say, either, that it did not.

17.7.5 Conclusions: the conduct of the police operation

Overall, however, the police actions at Maungapohatu were poorly planned, poorly judged, and quite unwarranted. Cullen, the commissioner, was evidently unaware even that an arrest on a Sunday was illegal. The presiding judge found it to be so as it was contrary to the Justices of the Peace Act 1908, section 363 (a colonial re-enactment of an ancient rule of English law set out in the Lord's Day Observance Act, passed in the reign of Charles II). We share the surprise of counsel for Nga Rauru o Nga Potiki that an 'extensive police operation led by the most senior and experienced police officer in the land should fall foul of this important and well-known legal requirement'.²⁸⁶ As commander, Cullen also failed to properly brief his men on what to do if shooting broke out – or on the importance of avoiding bloodshed; the result was an ill-disciplined force whose actions cost two men their lives. Cullen ignored Rua's request for a meeting and instead rode onto the marae on horseback, in a culturally offensive manner, armed police at his back. If he really did believe armed resistance was possible then this was a highly provocative action. The wounding of four police meant the departure of the police party had to be delayed for over two days. The police occupation led to further allegations and lasting pain and resentment among the people and their descendants.

The scale and nature of the police expedition, and its unfortunate leadership,

284. Tutakangahau, interview, 9 August 1916, p1 (Murton, supporting papers to 'The Crown and the Peoples of Te Urewera' (doc H12(a)(U)), p 29)

285. Counsel for the Crown, closing submissions (doc N20), topic 17, p 9

286. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 322

were such that it was hardly surprising that it had disastrous outcomes for the people of Maungapohatu. Cullen may not have seen its outcomes in such a light, though some of his men sustained injuries: he led Rua away in handcuffs, along with a number of other men, and that was what he had set out to achieve. But for the Maungapohatu community, the arrest of Rua in such circumstances, the killing of two of their sons, the occupation of their village by police whom they held responsible for the deaths, the ill treatment and even abuse of women, all stemmed from a kind of expedition that they had clearly not foreseen or expected.

The killings of Toko and Te Maipi must be deeply regretted. Some evidence indicates that the deaths may have resulted from a poorly disciplined police response once gunfire broke out, and were therefore avoidable. There is also evidence that Toko in particular posed little or no threat to police at the time he was killed; if Te Maipi was in fact running away, he did not either. There is insufficient evidence to conclude, at this distance in time, that police executed one or both men; but their deaths are a terrible indictment of the decision to take such an expedition to make an arrest.

The words of kaumatua Aubrey Tokawhakaia Temara embody the view of the Maungapohatu community:

It was overkill to send a column of armed police to carry out an assault on Tamakaimoana. That was a sledge-hammer attack on a peaceful community whose leader was accused of nothing more serious than sly-grogging and disloyalty in opposing Tuhoe volunteering for active service in Europe.

That he was sentenced to 2.5 years imprisonment for offering ‘moral resistance’ to the police is preposterous and defies any principles of natural justice.

Tamakaimoana paid an enormous price in blood, shame and financial losses, for the most tenuous of crimes.²⁸⁷

17.8 TREATY ANALYSIS AND CONCLUSIONS

The Crown’s actions in April 1916 – its decision to send an armed police force to arrest Rua, and the way the force conducted itself under the inadequate leadership of Commissioner Cullen – were taken without proper regard to the well-being of the Maungapohatu community. At a minimum, we would expect the Crown to protect its citizens from capricious acts of aggression, in which gunfire would result in their needless deaths. By dispatching a military-style yet ill-trained force to Maungapohatu, the Crown failed in this most basic duty and caused unnecessary harm to a peaceful community.

We agree with the Crown that some form of police action was required in April 1916 to enforce the court’s order to arrest Rua. Although his defiance of the law highlighted discrepancies in the way that liquor was controlled in Maori and Pakeha communities, from the point that Dyer sentenced Rua to gaol for contempt of court, the police were required to bring him into custody. And although

²⁸⁷. Temara, brief of evidence (doc K15), p 5

all parties were uneasy about the way sentences for Rua's earlier convictions appear to have been used, we have found that there was no ministerial interference. Sentencing is a judicial action and not an action of the Crown. Our concern is with the manner of enforcement of the court's order, especially after Rua refused to accompany police officers at Te Waiiti in February 1916. How did the police decide to proceed from this point?

Two matters are significant for the ultimate outcome at Maungapohatu. First, the swift involvement of the Minister of Police after the events at Te Waiiti signalled that this was more than a routine police response. While it seems that Rua himself prompted ministerial involvement, by impressing on Ngata that he wished to negotiate with a more senior Government figure, it was nevertheless Alexander Herdman – the Minister of Police – who arrived at Ruatahuna in early March; not William Herries – the Minister of Native Affairs – who Rua had recently dealt with. Herdman had ostensibly travelled to Ruatahuna to find a peaceful solution. While its main aim remained to take Rua into custody, it was clear that the Government now viewed the standoff as a political matter. Why else would a Minister of the Crown have maintained such close involvement in the plans for his arrest? Given this level of political involvement, and the fact that Rua had asked to talk to someone of standing, a peaceful outcome remained possible; indeed, this was what Ngata had hoped to achieve. But by travelling to Ruatahuna and issuing threats and warnings to Rua at a remove, instead of going to Maungapohatu himself, Herdman effectively foreclosed the option of a political solution.

Secondly, and related to this, Herdman's view of Rua as a 'law-breaker' who had threatened violence, coupled with Cullen's simultaneous preparations for an armed expedition, indicate that the Government was already looking beyond a peaceful outcome. It is likely that Herdman instructed Cullen directly during the period in question, given the extent of Cullen's reporting on the details of the preparations, and a later statement by Herries who noted that the police 'were the representatives of the Government, when they went to Maungapohatu'.²⁸⁸ Herdman also gave Rua an ultimatum, threatening to 'take immediate steps to have the law enforced' if Rua did not surrender to the authorities. Rua, for his part, was disappointed in his wish to welcome the Minister to Maungapohatu, and his concerns about how he would be treated once taken into custody were not allayed by the warning from Tai Mitchell – Herdman's go-between – that 'the country would be filled with soldiers' if he did not submit. Thus, the threat of force merely had the effect of strengthening his existing resolve to oppose the authorities. Herdman's approach to the situation, having arrived at Ruatahuna with the view that Rua was hostile, further contributed to the missed opportunity for a peaceful resolution of the standoff. When Rua refused to accompany Mitchell to Ruatahuna, and give himself up to Herdman, the police preparations moved into the next gear.

The Crown's failure to explore a peaceful resolution is highlighted by the excessive nature and ineptitude of the police response. Details of Cullen's preparations

288. Herries for the Prime Minister to Tei Wikino Hairupa, 12 September 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 113)

for the expedition indicate that few precautions had been taken to avoid injuries. Police were well armed; yet, as the Crown has conceded, they were not well trained or led.²⁸⁹ This was an obvious recipe for disaster. We find it inexplicable that such an outcome was evidently not anticipated, and that no steps were taken to manage or avert the risks to which the community were exposed. But it was not just Cullen's inadequate preparations that exposed the Maungapohatu community to harm; nor was it the actions of the rank and file in the heat of the moment. Two contingents of police officers, after all, managed their approach to the marae peacefully. Rather, it was Cullen himself who, as the leader of the police force, intentionally acted in a culturally offensive manner upon arriving at Maungapohatu with the main contingent of police. He therefore chose not to establish any basis of trust on which a productive discussion might have proceeded, and increased the likelihood of gunfire breaking out. Whether a better managed approach to the marae would have resulted in Ruā's acquiescence in arrest we will never know. But given the show of police force, he might have judged it prudent. Thus, another opportunity was lost for a peaceful resolution.

The exchange of gunfire that followed exposed civilians, including women and children, as well as the police themselves, to danger. Two young men were shot. Considering the wider context, their deaths were surely preventable. Others sustained injuries, and the police occupation that followed exposed the women and children to further distress and discomfort, and, in the case of some women, very possibly to abuse.

The origins of these events and their outcomes, as the claimants rightly pointed out, echo previous Crown military operations conducted in Te Urewera, particularly during the pursuit of Te Kooti almost half a century before. We have noted earlier in our report the distress caused by the occupation of Maungapohatu by Crown forces under the command of Ngāti Porou leader Rapata Wahawaha. That occupation – and the redoubts that were constructed as its symbols also – continues to hold huge importance for Tuhoe. Professor Pou Temara explained to us the depth of feeling associated with these events at our hearings: 'Kare ano nga toto o Maungapohatu kia ea' ('the blood of Maungapohatu has yet to be recompensed'). Yet Maungapohatu had also escaped the main waves of destruction suffered by other parts of Te Urewera earlier in the campaigns and, ultimately, their leaders were able to negotiate a withdrawal of the occupying forces from a position of strength. It is thus significant in our consideration of the events of 1916 that the origins of the Treaty relationship between Tuhoe and the Crown are found in the circumstances through which the Crown's first occupation of Maungapohatu came to an end: Te Whitu Tekau was established on the back of promises made to Tuhoe leaders, which culminated ultimately in the UDNR Act 1896, when a reciprocal Treaty relationship was established. But it is equally significant that the Treaty guarantees underpinning this relationship were so severely undermined in further bloodshed and the occupation of Maungapohatu by armed police officers. In 1916, the police blundered their way onto the marae, the outcome of which was

289. Crown counsel, closing submissions (doc N20), topic 17, p8

obvious to all parties in this inquiry. A Crown which considered it important to protect its Treaty partner would have pursued all available avenues to defuse the situation, and would only resort to arms as a very last resort. It did not, and was therefore in breach of the principle of active protection.

Richard Tumarae provided us with a powerful view of these events in his evidence:

. . . Rua was a pacifist. He did not have a violent history, he was a man of vision and peace.

The facts of what happened are inescapable – death and random cruelty, the suspension of civilized values and a disordered aftermath.

What happened remains a decisive human failure.²⁹⁰

The excessive and harmful nature of the police action begs the question: would any other community in New Zealand at this time – or any other community leader – have been met with such a response, given the circumstances? The answer is surely no. Although rumours abounded about the number of guns in the possession of the Maungapohatu community, those were merely rumours. The reality was that the community was substantially unarmed, and the guns they did have were most likely kept for hunting purposes and largely in disrepair. In any case, the community was peaceably inclined and posed a threat to no one – as demonstrated repeatedly on the numerous occasions when Rua met police officers with hospitality, not guns. Rua did not invite Herdman to Maungapohatu to do him any harm: he merely wished to talk. And as was pointed out at the time, the police force might easily have been ambushed, had this been Rua's intention. But the view had been taken that Rua was a troublemaker who had repeatedly defied the rule of law. No other community leader during the war was seen in this light, nor any other peaceful community dealt with in this fashion.

For these reasons, the Crown was also in breach of the principle of equal treatment, as had been promised in article 3 of the Treaty. Such promises were inherent in the Treaty relationship that Tuhoe and the Crown had forged in 1896. Notions of equality under the law were deeply held by Rua, who – as we have seen – professed this message to his people and to Prime Minister Ward at Whakatane in 1908. The Crown's departure from these principles in the treatment of Rua and the Maungapohatu community is thus more egregious.

The claimants suggested to us that the Crown's action not only violated the Treaty principles of active protection and equal treatment, but also set out to break the mana motuhake of a high profile community and its controversial leader. Lenny Te Kaawa referred to Rua's meeting with Ward in his evidence to us, in which he discussed his views on the Crown's attitudes towards Rua throughout this period. Ward, as we have seen, responded to Rua's proposed 'ceremony of union' with a firm response: 'There can be no other Government or king . . . there

290. Tumarae, brief of evidence (doc k26), p 5

can't be two suns shining in the sky at one time.²⁹¹ Mr Te Kaawa suggested that this response was a sign of what was to follow. He was arrested, according to the elders, not for selling alcohol, but because it was seen that he 'challenged the mana' of the Crown. But according to Mr Te Kaawa, this was not Rua's goal. He went on to say that Rua 'did not want Maori people to be left behind or trampled down, but that they ascend . . . as on the flag . . . he wanted things that way, that there be one law for both people, that the sun not shine on some, but not on others.'²⁹² Rua's belief in his own autonomy could not be tolerated, the claimants said; his repeated defiance of the law had reached such a point that the Crown believed it had to take action.

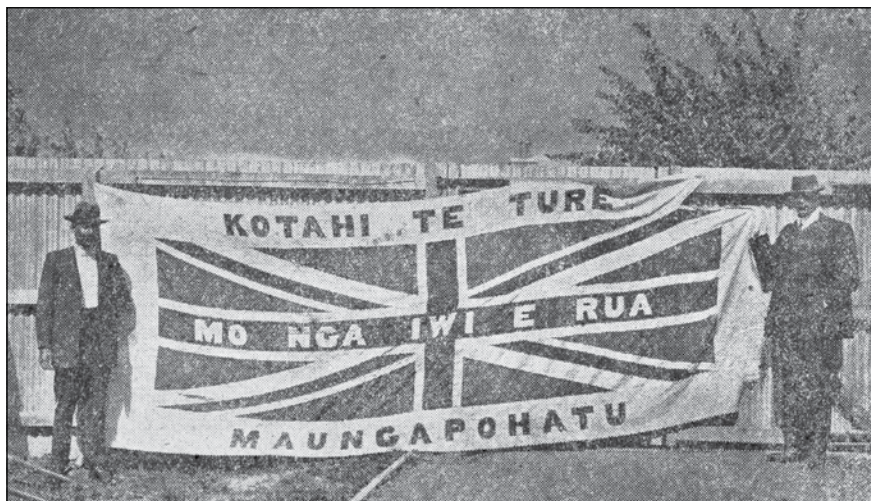
We have established that there is no evidence to demonstrate ministerial involvement in the series of events from 1915, when Rua was imprisoned on one of his 1911 convictions, until February 1916, when he refused to accompany police officers at Te Waiiti. Rua's public statements and his general activities from the time of his emergence on the national scene in 1906 certainly contributed to the widely held negative public perception of him. But his leadership, as we have seen, was officially acknowledged at the highest level during the period 1908–10, even if from the Crown's perspective it was to expedite the process of land sales. Rua primarily emerged as a target in the eyes of a conservative Government during wartime when his civil disobedience in relation to liquor violations was reinforced by supposed seditious statements in support of the German Kaiser. Thus, it cannot be said that the police action was taken solely as a result of a Crown determination to break Tuhoe autonomy.

Yet, in a wider sense, the Crown's response to Rua's defiance must be seen as part of the larger story that is the Crown's defeat of Tuhoe's self-governing aspirations. We have found that, in 1896, Te Urewera leaders entered into a full reciprocal Treaty relationship with the Crown, and that the Crown provided for legal recognition of their self-government. But the Crown subsequently breached the Treaty in failing to provide for and protect *mana motuhake*, in that it failed to ensure that the key promises of the UDNR Act were upheld. In this wider context, it comes as no surprise that Rua's emergence as a prophetic leader and the Crown's increasingly apprehensive – and in the end, destructive – attitude towards his community at Maungapohatu coincided with the unravelling of the UDNR Act and its promises.

Rua, like other Tuhoe leaders in the first years of the twentieth century, was frustrated by how little in the way of tangible results a relationship with the Crown had produced for Tuhoe. We have acknowledged that Rua was in a different mould from the established tribal leadership. His actions in offering to sell land caused them grief and contributed to the removal of options for wider economic development. But the Crown must carry the major responsibility for creating the conditions in which a leader like Rua looked for alternatives. His hope, no less than that of other Tuhoe communities, was for economic development, even prosperity. To that end, inspired by God, he built an autonomous settlement which would give

291. Binney, 'Encircled Lands, Part 2' (doc A15), p 387

292. Te Kaawa, oral evidence, hearing week 11, 21 February 2005

Stewart and Bennett, *Auckland Star* (50050, Auckland Libraries, 7-A1213)

Police officers posing with Rua's flag Maungapohatu, April 1916. Ironically, it was this flag (which had been commissioned initially by Tutakāhau and promised equality for Maori and Pakeha before the law) that was seized by police in their 1916 raid to be used as evidence for charges of sedition against Rua. The *New Zealand Herald* described its wording much later as an 'insolent' inscription. Judith Binney noted that former Police Commissioner Cullen deposited the flag in the Auckland War Memorial Museum in 1930. The flag was returned to Tuhoe in August 2014 as part of the Tuhoe–Crown Treaty Settlement Ceremony.

purpose to the lives of those who followed him. He was no different from other Tuhoe leaders in seeking recognition by the Crown of mana motuhake, even if he directed his frustration at what had become the hollow shell of the UDNR. In the long run, his aspirations were also passed over as the Crown turned instead to implement its own vision of Pakeha settlement in their ancestral homelands.

By 1916, Rua felt marginalised. Less than a decade before, he had been invited to meet the Premier, and the Governor; in 1910, he had travelled to Wellington to meet the Minister of Native Affairs. Whatever the Crown's motives, his authority had been recognised. But that recognition had not lasted. The Crown's interest in the General Committee, as we have seen, had quickly waned. Rua, whom the Government had taken such care to appoint to the Committee, had forfeited Crown interest along with its other members. It is significant that there was by 1916 no strong Tuhoe self-governing institution to which the Crown might have turned to help resolve the standoff with Rua.

By 1916, the Crown had entirely given up on its earlier promises to recognise and give effect to Tuhoe autonomy. Instead, it had embarked on an aggressive land purchasing programme that lasted five years, the ultimate outcome of which can be seen today in the dominating presence of a national park. Rua would never have contemplated this as the outcome of his vision. But in 1916, with the demise of the General Committee, Rua had essentially become a remaining symbol of Tuhoe mana motuhake. His arrest in such circumstances, unlike the Crown's slow

undermining of the General Committee, was a public assault on *mana motuhake*. The Committee's fate, brought about by changes in policy and legislation, had been unnoticed by New Zealanders. Twenty years after the UDNR Act had been passed, Tuhoe again watched an armed column move into the interior of Te Urewera in an assertion of authority by means of force. The rest of the country watched, too – through graphic press reports and photographs. At Rua's trial, the judge spelt out the significance of the arrival of the police in such a manner:

You have learned that the law has a long arm, and that it can reach you, however far back into the recesses of the forest you may travel, and that in every corner of the great Empire to which we belong the King's law can reach anyone who offends against him. That is the lesson that your people should learn from this trial . . .²⁹³

That was a judicial statement, but it was a view that contemporary politicians would have shared. The police action was, ultimately, a demonstration of the power of the State. It was not aimed at an accused charged with liquor offences at the lower end of the scale, or his passive resistance to arrest, or even his blustering talk (in a creek bed deep in the bush) about Germany winning the war. It was simply a further step in the Crown's defeat of Tuhoe *mana motuhake* during this period which, as we have seen, would be followed by the Crown's aggressive land purchase campaign to break the hold of Tuhoe and other peoples of Te Urewera on their Reserve lands. It was thus in breach of the principle of autonomy.

But would we go so far as claimants have suggested and describe this as an invasion? In chapter 5 we refrained from using this term to describe the Crown's actions in Te Urewera during its pursuit of Te Kooti. We found that the Crown was justified in mounting an armed expedition to arrest Te Kooti, because he had inflicted casualties on several communities in the East Coast, Bay of Plenty, and Hawke's Bay regions, and still posed an active threat. And while the Crown had yet to establish a meaningful Treaty relationship with Tuhoe, the balance of its duties required immediate action in the circumstances. Troops were therefore dispatched, and rightly so. But in conducting those operations, the Crown's forces were required to do their utmost to protect unarmed combatants and communities in Te Urewera. It did not, and was in breach of Treaty principles.

The situation in 1916 was markedly different. Although a police response was required, Rua did not pose a threat that justified an armed response. That Ministers and senior police officials felt that such an action was necessary – in the context of the Treaty relationship that had been entered into only 20 years before – can only be condemned in the harshest terms. The subsequent arrival of a large, military-style force in the heart of the Maungapohatu settlement, with the outcomes it had, is therefore tantamount to an invasion. It was an action that breached the plain meaning of the Treaty in the broadest sense, and it highlighted how far the Crown had eroded its promises to the peoples of Te Urewera, and the Treaty relationship

293. 'Law Triumphs', *Auckland Star*, 3 August 1916, p 5 (Webster, *Rua and the Maori Millennium* (doc k1), p 268)

that had been entered into, since the passing of the UDNR Act in 1896. In fact, it is difficult to think of a Treaty principle that the Crown's action does not breach.

Such a harsh action was likely to have significant and wide-ranging impacts. In chapter 15, we explained the consequences of the defeat of the UDNR and Crown purchasing on a range of Maori communities in Te Urewera – although they endured, their well-being was severely damaged. In the next section, we look at the particular prejudice suffered by the Maungapohatu community as a result of the Crown's Treaty breaches, immediately after the police invasion and in the years that followed.

17.9 WHAT WERE THE IMPACTS OF THE POLICE ACTION IN 1916 ON THE MAUNGAPOHATU COMMUNITY?

SUMMARY ANSWER: The police action at Maungapohatu, and the subsequent trials, caused distress and hardship for the community and contributed to its decline in the following decades. The crippling costs of the trial of Rua and others who were arrested at Maungapohatu forced people to sell livestock and interests in UDNR blocks. The Crown refused to provide assistance to the community, on the basis of reports that they were relatively well off and because such support might be perceived as an admission that Rua had been wrongly treated. Little was therefore done to alleviate the hardship faced by a community still in shock from a police invasion, a situation made worse by the 1918 influenza epidemic.

Rua and the Maungapohatu community did not attempt a full revitalisation of the Maungapohatu settlement until 1927. The impetus for this revival was a newfound partnership with the Presbyterian church, as well as anticipation of the completion of the arterial road, which the Crown promised as an outcome of the Urewera Consolidation Scheme, to which Tuhoe contributed a substantial amount of land. But the road that was constructed was only a track and did not reach Maungapohatu. This was a significant blow to the community, which to make matters worse now also faced the difficulties of the Depression of the early 1930s. Although several factors converged over this period to result in the eventual abandonment of the settlement, it cannot be doubted that the police invasion of Maungapohatu in 1916 was a decisive cause of its long-term decline.

The impact of these events on the relationship between the people of Maungapohatu and the Crown cannot be underestimated. Those who spoke at our hearing there conveyed the deeply ingrained sense of grievance they have harboured since the police burst into their settlement, now almost a century ago.

17.9.1 Introduction

Rua had founded a unique community at Maungapohatu, based on his own vision of economic development. His methods, as we have seen, were controversial. But, like all Tuhoe leaders at this time, he hoped his community would thrive and become prosperous, even in the mountainous terrain of Maungapohatu and its surrounds. Prosperity, however, required modern infrastructure, such as road

access. Rua made his first offer of Reserve lands to the Crown in order to fulfil this vision.

The police invasion coincided with the beginning of a decline in the economic fortunes of the Maungapohatu community that played out over a number of decades. The immediate effect was felt most strongly in the costs incurred through the trial of Rua and others who had been arrested. Claimants also suggested that they were required to pay for the costs of the police expedition; a claim firmly denied by the Crown.²⁹⁴ The Crown acknowledged that Rua and his followers had to cover the costs of the trial, but suggested that they were sufficiently well-off to meet these costs themselves.²⁹⁵ Following Rua's release from gaol, his followers began to return, especially after 1927 when a major revival was attempted. In the long run, however, the economic fortunes of the community deteriorated further, the outcome of which was the final abandonment of permanent settlement.

In this section, we consider the extent to which the events of 1916 were pivotal in the long-term decline of the Maungapohatu community.

17.9.2 The economic and social impacts of the police expedition

Apart from the damage caused to buildings and property, the first major economic effect felt by the Maungapohatu community arose from the cost of the trials. Legal costs alone exceeded £1,300. In addition, the people of Maungapohatu also bore the cost of interpreters and travel and accommodation for defence witnesses.²⁹⁶ Crown counsel suggested that these costs were inflated by the drawn-out nature of the trial, which as we have seen was the longest in New Zealand's history.²⁹⁷

We agree with Crown counsel that there is no evidence that the Maungapohatu community were charged with the cost of the police expedition itself.²⁹⁸ Police documents show only that the costs of the expedition were compiled and reported.²⁹⁹ But whether the Crown should have assisted the community in meeting the costs of the trial is another question. According to Binney, the community sold steers and sheep to raise funds. Others, including Rua's eldest son, Whatu, sold interests in blocks in the Urewera District Native Reserve in order to raise money for defence and witness expenses.³⁰⁰

At his sentencing, Rua expressed concerns about the welfare of the women and children of Maungapohatu, given the financial drain of the trial. The trial judge,

294. Counsel for Nga Rauru o Nga Potiki, closing submissions (doc N14), p 332

295. Crown counsel, closing submissions (doc N20), topic 17, pp 11–12

296. Waitangi Tribunal, statement of issues for Urewera inquiry district, stage one, August 2003 (statement of issues 1.3.4), p 194

297. Crown counsel, closing submissions (doc N20), topic 17, pp 11–12

298. *Ibid*, p 12

299. Commissioner of police to chief clerk, Police Department, telegram, no date (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 20); 'Expenses incurred in connection with arrest of Rua', no date (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 21)

300. Binney, *Maungapohatu Revisited* (doc A128), p 365; Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 132

Justice Chapman, therefore wrote to the Native Minister asking him to investigate their situation.³⁰¹ At the same time, a petition was sent to Prime Minister William Massey from a number of Maungapohatu people, indicating the effect of the trial. ‘We feel that we have been very badly . . . treated, and that we should be paid for the losses and in particular those dependent upon those who died.’ The petition concluded: ‘The trial has entirely ruined us.’³⁰² Herries responded by rejecting the request, pointing to the upcoming perjury trial, and stating that ‘the law must take its course.’³⁰³ This was not perhaps a surprising response on his part. He had given a speech at Ruatoki in April, after the police had arrested Rua, in which his opportunism and his lack of concern for the economic well-being of Tuhoe generally was evident. At the time, he had already embarked on what would be a massive land purchase exercise in the UDNR. In a rather chilling statement, he told the people that he would not confiscate their land by way of reprisal. He would not, he said,

be a murderer of land, as Rua had been a murderer of people, but he would ask them to assist him in his desire to show . . . that there was a way of settling this country without resorting to confiscation. He therefore asked them to assist him in purchasing, at a fair price, the interests of those natives who wanted to sell land.³⁰⁴

Herries did ask Judge Browne, the chair of the Waiariki Maori Land Board, to report to the Government on the material circumstances of the Maungapohatu community, and whether assistance was warranted. Browne dispatched Captain Herbert Macdonald to conduct the investigation.³⁰⁵ Macdonald reported that Rua’s wives and children appeared to be well provided for, that the community was bereft of sheep and cattle due to the trial, and that several ‘Natives’ were willing to sell land at Maungapohatu and Ruatahuna. He concluded that no assistance was required as ‘Natives always help one another.’³⁰⁶ Judge Browne of the board reported the results of the investigation to the acting Under-Secretary for the Native Department:

301. Chapman to Herries, 7 August 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, pp 309–311)

302. Tei Wikino and 14 others to Massey, 2 August 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, pp 115–116)

303. Herries to Tei Wikino Hairupa, 12 September 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 113)

304. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 122

305. *Ibid*, p 134. Maori Land Boards were mainly concerned with the administration of Maori land after it had passed through the Native Land Court. But among their many functions, Maori Land Boards were also empowered to assist the Government in determining which Maori land could be sold in their respective districts: Alan Ward, *An Unsettled History: Treaty Claims in New Zealand Today* (Wellington: Bridget Williams Books, 1999), pp 154–156.

306. Herbert Macdonald to the President of the Waiariki District Maori Land Board, 11 September 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, pp 358–359)

The Tuhoe Natives are, if anything, more communistic than any other section of Natives in New Zealand. They are fairly well off from a Native point of view, and there is no danger of Rua's wives and children being allowed to suffer want or hardship in any way. The offer of help too might possibly be misunderstood. It would probably be considered by most of the Natives as an indication of weakness on the part of the Government, and an acknowledgment that Rua had been badly used. The best way to assist them and to help European settlement at the same time will be to send the Land Purchase Officer into the district to continue the purchase of their surplus lands.³⁰⁷

This general view of the authorities, expressed here with such detachment, that Maungapohatu was unworthy of help and was – as a community – disposable, would be echoed in later years. We note that the judge echoed Herries on the supposed benefits of Tuhoe selling their land. Crown counsel accepted the Crown 'did little to alleviate the burden' on the grounds of Judge Browne's assessment, 'believing the people of Maungapohatu to have adequate resources for their needs.'³⁰⁸

By the time Rua was released from prison in April 1918, many had left Maungapohatu and the land was becoming overgrown.³⁰⁹ The 1918 influenza epidemic had taken its toll. The original buildings had been demolished due to 'the violation of Rua's tapu house and the deaths of Toko and Te Maipi'.³¹⁰ Some of the timber was used to help construct Rua's new house and a new meeting house at nearby Maai.³¹¹ Until 1927, Rua only lived intermittently at Maungapohatu. But in that year, he revived his millennial teachings and prophecies and planned a revitalisation of the settlement. He was aided in part by the Presbyterian minister, John Laughton, with whom Rua forged what has been described as a 'remarkable working relationship'.³¹² People also returned in the expectation that the arterial road promised under the Urewera Consolidation Scheme was about to be built. As we explained in chapter 14, Maori owners – including those of the Maungapohatu blocks – contributed a significant amount of land for the cost of constructing two roads. One was to run up the Waimana Valley to Maungapohatu, with a connecting road to Ruatahuna. Construction work on the Waimana end had begun in the early 1920s, and in 1927 the scheme was finally brought to an end with the Crown's award. By 1927, 21 miles of a 12-foot dray road had been completed between Waimana and Tawhana. Beyond that, a six-foot track had been constructed to Maungapohatu: the expectation was that it would soon be widened to a road. Two to three hundred people returned to the settlement, and a number

307. Judge J Browne to acting Under-Secretary, Native Department, 27 September 1916 (Parker, supporting papers relating to Rua Kenana (doc J5(a)), vol 1, p 360)

308. Crown counsel, closing submissions (doc N20), topic 17, p 12

309. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), p 134

310. *Ibid*, p 146

311. *Ibid*, p 143

312. *Ibid*, pp 134, 136, 139; Webster, *Rua and the Maori Millennium* (doc K1), pp 281–282

of the buildings were restored and renovated.³¹³ The community flourished for a period of two years.

But the revival did not last long. A range of circumstances combined to contribute to the eventual decline of the community in the 1930s. The onset of the Depression was a significant factor. Ragwort also infested grazing lands and led to many cattle deaths. Perhaps the most decisive setback to the community at this time was the Crown's failure to complete the road to Maungapohatu. This was a massive blow to the hopes of economic development which Rua had cherished for so many years. As early as 1908, he had been trying to secure road access to Maungapohatu. By 1927, as we have shown in chapter 14, the Crown had already abandoned its commitment to completing the arterial roads. Yet the community returned under the false assumption that the work was about to proceed. In chapter 15, we outlined the difficulties faced by the Maungapohatu community without a road. The six-foot bridle track between Tawhana and Maungapohatu was a poor substitute. Travel to bring in supplies was slow and difficult. After 1930, maintenance work on the existing track stopped, and it rapidly deteriorated. Officials described the material circumstances of the Maungapohatu settlement as 'most depressing'.³¹⁴ By 1937, the population of Maungapohatu dropped to just over 100.

Rua died in 1937. That same year, one official – tasked with investigating the fate of the arterial roads promised under the Urewera Consolidation Scheme – described Maungapohatu as 'useless . . . for native development' due to its isolation and altitude.³¹⁵ After the Second World War some officials were advocating the evacuation of the community, rather than meet the very small cost of repairing the old stock track between Ruatahuna and Maungapohatu.³¹⁶ Judge Harvey was critical of the proposal, and it was shelved. The families at Maungapohatu, he found, were very determined to stay there; they wanted a post office and educational facilities, as well as road access.³¹⁷ This rearguard action was doomed: the community was written off again and barely survived its last rebuff. As we have noted in chapter 15, no development scheme eventuated for Maungapohatu. And later amalgamation and the lease of farming land was not a success for several reasons – among them ongoing problems with road access.³¹⁸

Maungapohatu may not have been finished off by the events of 1916, but in economic terms those events were a major setback. And while small-scale dairy farming on marginal lands was always going to be problematic irrespective of road

313. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 152–158; Sissons, *Te Waimana* (doc B23), p 272

314. Galvin and Dun to Conservator of Forests, 29 April 1935 (SKL Campbell, comp, supporting papers to 'Te Urewera National Park 1952–75', 2 vols, various dates (doc A60(a)), vol 1, p 32)

315. RG Dick to Under-Secretary for Lands, 20 August 1937, p 10 (Stephen Robertson, comp, supporting papers to 'Te Urewera Surveys: Survey Costs and Land Valuations in the Urewera Consolidation Scheme, 1921–22', various dates (doc A120(a)), p 162)

316. Easthope, 'Maungapohatu and Tauranga Blocks' (doc A23), pp 217–219

317. *Ibid*, pp 220–221

318. Bayten Timber Company had built a forestry road through to Maungapohatu in the early 1960s, but when logging finished 10 years later the Maungapohatu owners struggled to maintain it on their own: Temara, brief of evidence (doc K15), pp 5–7.

access, the Crown's failure to carry out its promise was undoubtedly a crippling blow. Indeed, the brief revival of farming operations at Maungapohatu following the construction of road access by the Bayten Timber Company in the 1960s suggested what might have been had the road been put in place in more favourable circumstances, when the community returned in the mid-1920s. In any event, it was a broken promise too far on the back of the police invasion. In this respect, the action was a decisive cause of the community's long-term decline.

17.9.3 The political and cultural impacts of the police invasion

Our Maungapohatu hearing was a powerful reminder that time has not diminished the people's sense of grievance as a result of these events. All Tuhoe had been prejudiced by the Crown's failure to ensure that its promises of self-government under the UDNR Act 1896 were given effect to. But the police invasion of Maungapohatu impacted on its community in a unique way. Rua had seen his hopes of economic development at Maungapohatu stymied – despite his willingness to sell land to achieve this. His own relationship with the Crown turned out to have been short-lived, and unproductive. But the nature of the police expedition, and its outcomes, were cause for deep distress.

The invasion did not entirely have the effect the Crown might have expected on Rua's leadership. Webster considered Rua's mana was 'in some respects' reduced. But Rua was no ordinary leader. His followers realised also, Webster wrote, that he had 'suffered for their sake.' It came to be believed that he had been shot during the battle and that 'it was only because he was a supernatural person, the messiah, the brother of Christ that he was able to live at all.'³¹⁹ When he was released from gaol, hundreds of his followers turned out to meet him at Maungapohatu.

One of the most lasting impacts – and a significant cause for resentment – has been the stigma attached to Rua and the community resulting from the Crown's treatment of them throughout the period. This stigma took its final form in the verdict that Rua was guilty on the grounds of 'moral resistance' (stemming from his actions in refusing to be arrested at Te Waiiti in February 1916), following his trial in 1916. While the trial did not produce the kind of verdicts that the Government might have expected, the verdict was still significant.

The subsequent public protest of eight of the jurors against the severity of the sentence passed by Justice Chapman was a salutary reminder that New Zealanders would not automatically support the use of force by the State against a Maori leader who might be deemed troublesome. Writing to the *Auckland Star* on 7 August 1916, the jury members took issue with how the judge had interpreted their verdict that Rua was guilty of 'moral resistance', stating that they meant to convey that Rua

had no intention of resisting the police in any physical manner, but that he would not go with them voluntarily and until the position was satisfactorily explained to him. We consider Rua wished to be formally arrested as a matter of protest, for we believed

319. Webster, *Rua and the Maori Millennium* (doc k1), p 274

he was of opinion that he was being persecuted, and in that respect we shared his opinion.³²⁰

In the full version of the letter (which the *Auckland Star* did not publish), the jurors included more damning comments. They did not think the police evidence reliable, and based their verdict on that of Rua and his witnesses. Ten of their number had favoured an 'absolute acquittal, preferring to believe the native version of both Wai-iti and the Maungapohatu incidents'. Their conclusion was couched in strong language: 'Our sympathies were and are entirely with Rua, both as to his treatment by the Magistrate and by the Police'.³²¹

Despite such comments, the invasion and its aftermath reinforced the broad public perception that Tuhoe were a difficult people, who acted repeatedly in defiance of the law. The pictures of the invasion were so dramatic, and the trial headlines so inflammatory, that it would be hard for Tuhoe to escape the view that they were still warriors – rebels – in conflict with the Crown, as they had been in Te Kooti's time. The history of the Urewera District Native Reserve Act, and all the good faith negotiations that had led to it – establishing a new relationship between Tuhoe and the Crown – would be buried. The Crown's recognition of Tuhoe mana motuhake would be forgotten. Tuhoe have had to bear the weight of that public image for a hundred years, alongside the defeat of their self-governing aspirations.

17.9.4 Conclusions: impacts of the police invasion

We can think of no stronger words to convey the full impact of these events than those spoken at our Maungapohatu hearing. Kaumatua Maahue Te Waara told us of the tipuna whare Tanenuiarangi, which Rua had built, and of the symbols within it that represented the actions of the Crown:

Ka kite koutou i nga taonga i roto i te whare nei, te whakarite, me te whakatau o te kaumatua nei a te Rua, no te ahuatanga o te karauana. Te ahuatanga o te karauana rite tonu ki te taimana. Ana ka kite koutou he taimana kei roto i tenei whare. Tana mahi he tapahi karai, nga wini, nga kohatu . . . A rite tonu ki te karauna . . . kia tapahi wairua, tapahi tikanga, tapahi nga huatanga katoa tae noa ki te whenua. Koirā nga taonga e iri nei i runga i tenei whare. Na te paipera katoa enei whakaaro . . .

Ko au kei muri ra a ko au te hei karapu, ko au ko te Maori, kei roto au i te wahi pouri e noho ana, o taku whare. Ka tika ta Tamati korero nei, kua mau i au te noho ana o muri o toku whare i te mea ko koe, te karauna, kei mua o taku whare e noho ana. Koina ana korero a Tamanuiarangi.³²²

320. 'The Rua Trial: Letter from Jurymen', *Auckland Star*, 7 August 1916, p 6

321. Binney, Chaplin, and Wallace, *Mihaia* (doc A112), pp 126–127. Binney notes that the foreman of the jury did not sign. He argued that there had been time for the other members of the jury to have raised their objection. Two others supported the foreman. Although it appears that the letter was the work of one of the jurors, we agree with Binney that it was 'improbable' that the other eight would have signed the letter had they not agreed.

322. Mahue Pikituangahuru Heemi Te Waara, oral evidence, hearing week 11, 21 February 2005

As you see, the treasures in this house . . . represent the Crown's actions according to Rua, and it was the form of the diamond representing the Crown. As you can see, the diamond, its work, its function is to cut glass, stones . . . It is a symbol of the Crown . . . it cuts spirits, it cuts customs, it cuts perspectives unto the land. And so that is why you see the diamond in this house. These were taken from the bible . . .

Me, I am the clubs, I am the Maori, I am in the dark, I live in the dark part of the house. Tamati is correct when he says that I am tired of sitting at the back of my house because you are in the front of my house, sitting at the front. Those are the words for Tanenuiarangi.³²³

Mr Te Waara referred here to the korero of Tamati Kruger, who (as we explained in chapter 15) spoke of the effect of the Crown's actions throughout this period. Addressing the Crown, Mr Kruger said, 'you have commandeered the greater place for yourself and the narrower place for your guest, so they may feel the pinch and cramp.'³²⁴ From experience, it appeared to Tuhoe that partnership was of no interest to the Crown.

Lenny Te Kaawa's final words were expressive of the grief of the people of Maungapohatu, and their sense of alienation from the Crown:

Ka hoki whakamuri aku mahara ki aku matua ki aku whaea aku kuia koroua kai te rongong tonu. Ka kite tonu ahau i whakaata mai ana i runga i o ratau kanohi i roto i o ratau reo te mamae . . .

Nga taunu nga hahe nga toto hoki o o ratou whanaunga i maringi ai ki Maungapohatu i paku ai te pu ki Maungapohatu i nana ko te kawanatanga kia wetohia koe ki te ahi i tahuna mai ai i te wa i moe ai a Te Maunga raua ko Hinepukohurangi takanoa mai ki tenei ra. E mura tonu nei. E tutakitakihia atu nei e nga whakatipuranga.³²⁵

My memories return to my elders, to my uncles, to my aunts, to my parents, to my grand dames, I still hear them. I hear their cries and their pain of our elders . . .

Blood was shed, your guns were fired at Maungapohatu . . . the Government will never requite the blood that was spilt here at Maungapohatu. You can never extinguish the fire that was started, lit by our ancestors from the time of the union of Te Maunga and Hinepukohurangi unto this day and into the future. You will never ever clear us from our place of standing.³²⁶

323. Mahue Pikituangahuru Heemi Te Waara, oral evidence (simultaneous interpretation by Rangi McGarvey), hearing week 11, 21 February 2005, tape 10-37-37

324. Tamati Kruger, claimant transcript of oral evidence, Mapou Marae, Maungapohatu, 21 February 2005 (doc K34(a)), pp 18-19

325. Lenny Mahururangi Te Kaawa, oral evidence, hearing week 11, 21 February 2005; see also Te Kaawa, brief of evidence (doc K22), p10. Where there were differences between the oral submission and brief of evidence, we have used the oral evidence.

326. Te Kaawa, oral evidence (simultaneous interpretation by Rangi McGarvey), hearing week 11, 21 February 2005

The pain of the Maungapohatu people, and the vivid memories of that terrible day over 95 years ago were very evident to us from the time we arrived at the marae. Our kaumatua Tuahine Northover, commenting later on the powhiri, was of the view that the kaumatua and kuia of Maungapohatu were not seeing the manuhiri who had come for the Tribunal's hearing; they were reliving the arrival up the same slope of the Crown's armed force.