

## CHAPTER 8

# ALIENATION OF MAORI LAND IN THE ROHE POTAE (AOTEA BLOCK), 1900–20

### 8.1 NATIVE TOWNSHIPS

In 1895, the Liberal Government introduced the concept of ‘native townships’. This system was apparently created out of frustration at the difficulty and length of time it was taking in purchasing some Maori land in the North Island for European settlement. The system contained clear elements of compulsion, as Maori agreement was not required before a township could be proclaimed on Maori land.

The native township system was devised to cater for pressing European land needs in areas other than traditional farming. Pressure for the townships tended to come from Europeans interested in potential economic opportunities associated with activities such as tourism, saw milling or providing services to surrounding farmland. The land required was not as great as that required for a farming settlement, but improvements were usually erected on the land and it was located in the form of a township. It appears that the Government also hoped that such townships might act as small centres of European settlement in areas that were otherwise difficult to open up. This might then encourage European settlement into the district around the townships. The townships were aimed at opening up Maori land. Woodley quotes Sheridan, head of the Land Purchase Department, commenting in connection with a proposed township in 1895, that the township system was ‘never meant to apply to lands in the very centre of European settlement’.<sup>1</sup>

Native townships were originally created under the Native Townships Act 1895, but townships were not proclaimed in the Rohe Potae until after amending legislation had been passed in 1902. The 1895 Act contained coercive provisions aimed at Maori landowners, where purchasing had proved unsuccessful. The role of native townships was explicitly expressed in the Act’s subtitle as: ‘An Act to promote the Settlement and Opening-up of the Interior of the North Island’. In general, the 1895 Act enabled any area of up to 500 acres of native land to be proclaimed a native township area. This was possible whether or not the land had already passed through the Native Land Court (s 2). The proclaimed area was to be surveyed and laid off into allotments, streets and reserves. Of the allotments, Maori were able to retain in their own use as much as the Surveyor General thought

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1. Suzanne Woodley, *The Native Townships Act 1895*, Waitangi Tribunal Rangahaua Whanui Series (first release), 1996, p 16

‘reasonable’ but not exceeding 20 per cent of the area proclaimed as a township. Every building actually occupied by Maori and every urupa was to be included in these native allotments (s 6). Maori wishes as to the location of these native allotments were to be complied with, as long as they did not interfere with the rest of the proposed township (s 7). Maori also had a limited right of objection regarding the location of these allotments (ss 8–9).

All streets and reserves laid out in the township were to be vested in the Crown as under the Public Works Act and the Public Reserves Act. All native allotments were to be vested in the Crown ‘in trust for the use and enjoyment of the native owners’ subject to certain regulations. All other allotments were to be vested in the Crown ‘in trust for the Native owners according to their relative shares and interests therein’ (s 12).

The allotments not allocated to Maori could be leased by the commissioner of Crown lands on prescribed terms and conditions. Leases could be of terms up to 42 years (ss 14–15). Rents collected were to be paid into a common fund and distributed to the Maori owners according to their interests in the land. This was to be done only after the deduction of costs for surveying, administration, and compensation due for improvements already on the land when it was proclaimed (ss 19–20). Local government of the township was to be a matter to be decided by the Governor in Council (s 24).

Although initially at least, there was an emphasis on leasing land, this first 1895 Act allowed for the possibility that Maori owners could sell their interests in the non-native allotments to the Crown (s 18). In effect this was a form of Crown pre-emption and the Crown could then on-sell the land to lessees and others.

The Act made no explicit mention of compensation for land taken for public reserves and streets. Apparently the lack of compensation was intended to be offset by the promised increase in value of the rest of the land, although this ignored the compulsory nature of the legislation. The compulsory provisions of the 1895 Act have been described by Ward as a ‘further example of the Liberal government’s tendency to resort to compulsory measures to assist private development’.<sup>2</sup> Owners were expected to forgo compensation, even at an unimproved value, and bear substantial survey and administration costs, all in anticipation of future profits to be gained from their share in the promised increase in the value of the township land.

The proclamation under the Act declared the Crown’s intention to establish a township. After the township was surveyed and laid off, which could be some years after proclamation, it was then ‘declared’ a township. The native township system effectively bypassed the Native Land Court where it was felt that this was proving too slow at overcoming ‘difficulties’ in opening up Maori land for purchase. The preamble to the Native Townships Act 1895, for example, referred to the problems where:

in many cases the native title cannot at present be extinguished in the ordinary way of purchase by the Crown, and other difficulties exist by reason whereof the progress of settlement is impeded.

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2. Ward, ‘Whanganui ki Maniapoto’ p 112

The Minister of Lands and Immigration, McKenzie, explained in Parliament that the 1895 Act was intended to overcome problems where Europeans were already building stores and dwelling places on native land. This was likely to be a source of trouble in future and there were areas where townships were necessary, but it was impossible to get land. He cited Pipiriki as an example. Pipiriki was native land and although a steamer was engaged in trading on the river, it had proved very difficult to obtain Maori consent to build there. McKenzie was supported by another member, Duthie, who noted that the Bill ‘appeared to be of a very arbitrary character’ but he had also visited Pipiriki, and believed that the tourist traffic there, ‘ought to be a very large source of income to our settlers’.<sup>3</sup> About 14 native townships were created under the 1895 Act.

There was considerable Maori suspicion about Government intentions regarding native townships. The member for Northern Maori, Hone Heke, had serious concerns about the 1895 Act. He believed Maori were amenable to having townships but they objected to their lands being utilised when they could not receive market value for their property. In criticisms that turned out to be prophetic, he reminded Parliament that a similar system of leasing land had been tried at Rotorua but had achieved little benefit for the Maori owners. He also warned that the reserves being created for Maori appeared to be of benefit, but the situation with regard to the West Coast reserves (in Taranaki) should be noted. The Crown was actively acquiring interests in those reserves and they were passing into Crown ownership. The original intention of the law was being departed from and the reserves had become of no value to Maori. Heke went on to criticise Crown purchase activities under pre-emption, including the fairness of the price in the absence of market values and the shady practices of Crown purchase agents. He argued that:

Honourable members would find that whenever the prosperity of a township was assured the Crown stepped in and sent their agents amongst the Native owners and asked them whether they desired to dispose of their interests to the Crown . . . the same result would occur in the case of these new townships.

Heke went on to detail some of the shady practices undertaken by purchase agents to pressure Maori to sell interests including engineering debts and constant pressure to sell land to pay for necessities.<sup>4</sup> However, his request that township land at least be made inalienable was rejected.

In Parliamentary debates in 1910, Carroll presented himself as having originally drafted the 1895 Bill. He explained that he had become impressed with the ‘necessity’ of such legislation after visiting various places in the North Island. He had found European traders established in Maori settlements in anticipation of the ‘opening up’ of the country but who had no legal title to the land and seemed unlikely to be able to get one. In some cases they had even built business premises or houses on the land.<sup>5</sup> It seems likely that the Bill was Carroll’s attempt to find a

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3. NZPD, 1895, vol 87, pp 180–181

4. NZPD, 1895, vol 87, pp 593–597

5. NZPD, 1910, vol 151, p 271

‘solution’ that would defuse agitation for even more compulsory measures to acquire sought-after Maori land. Carroll was well known for supporting measures he had no particular enthusiasm for, in order to gain more time for Maori land owners or to deflect even more draconian measures from being implemented. Later in the same debates, he referred to the establishment of the townships as a distinct policy conceived to meet a number of ‘emergencies’ at the time. He explained that the 1910 Bill dealt only with existing townships and did not envisage the creation of any new ones. The township system had been created to meet a public demand and had served its purpose. In future if townships were necessary: ‘well, the Crown will have to buy land for that purpose’.<sup>6</sup>

The township system did appear to have some merit for Maori. It seemed to offer an alternative to the massive and relentless land purchasing process already taking place. Total alienation through land purchase almost always resulted in the marginalisation of Maori from new economic opportunities. Maori were also hampered in taking advantage of new opportunities by the slow, expensive land court process. The township system bypassed much of the court process in dealing with the land. Maori might also continue to participate in the future prosperity of the township with income from leasing and from any future increase in value of township lands. The fact that the Crown was acting ‘in trust’ for Maori owners may also have indicated some form of partnership between the Crown and iwi, including the future management of the township.

However, even by 1899, there were problems for Maori with the native townships. In 1899, an amendment was made to the 1895 Act in recognition of the fact that Maori owners in townships were in many cases receiving no rental income from the leases. This was because survey charges and other costs were taken off first. These were so high that the owners were unlikely to receive an income for many years. The amendment changed the payment of the charges to a system of instalments so that the owners would at least get some income from the rentals in the meantime.<sup>7</sup> Even where leases were relatively successful and a reasonably good rental was received, there were still problems for Maori owners with fragmentation of title where the rental was split among numerous owners. An example was Pipiriki, where in 1902 it was expected that the large number of owners would receive less than sixpence each every six months. There were also problems in distributing the money to large numbers of owners, many of whom lived in isolated places and never came near the offices from where payments were made.<sup>8</sup> The Crown also had the usual problems with leased land, in collecting rents from those lessees who were unable or refused to pay. In many cases, the Crown dropped legal actions to recover rents in the face of pressure from lessees.

In 1903, Carroll made another amendment to the 1895 Act. This allowed township plans to be altered and the purpose for which lands were vested in the Crown to be changed. The aim was to protect Maori against any ‘glaring mistakes’ in the layout of a township. Apparently there were already grievances, as Maori

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6. NZPD, 1910, vol 151, p 292

7. NZPD, 1899, vol 108, p 593

8. Government official, Sheridan, quoted in Woodley, p 21

wishes concerning important sites had been ‘utterly disregarded’. Traditional cultivation sites, for example, had been taken as recreation reserves.<sup>9</sup>

The legislative measures in creating townships were clearly coercive and Government officials tended to prefer to act accordingly. For example, in discussions over the creation of Parata township in 1900, Government officials decided that it was a:

matter of indifference to the government as to who was the legal owner of the land, for the consent of the owner is not necessary to proclaiming a township under this Act. The ownership merely involves the question as to whom the rents should be paid to.<sup>10</sup>

Nevertheless, Carroll appeared to be strengthening the advantages for Maori in his amendments in 1902. The Native and Maori Land Laws Amendment Act 1902 vested township lands in district Maori land councils (s 8) and gave the councils certain management powers over the layout and administration of the townships (s 10). The district Maori land councils were created under legislation of 1900, and in 1902 there were some elected Maori members and the possibility of majority Maori membership. This may well have made the township system appear more acceptable to Maori.

Four native townships were proclaimed under the Native and Maori Lands Laws Amendments Act 1902 (s 8). Three of these were in the King Country. These were Taumarunui, Te Kuiti, and Otorohanga (see figure 7)<sup>11</sup>

Native townships were often new creations, created when a proclamation was made. However, the three Rohe Potae townships were already long established townships when they were officially proclaimed as native townships. The re-establishment of Crown preemption in 1884 had meant that Europeans were unable to deal in land in the townships but improvements had been made by Maori owners. There had been some growth due to the railway and there were already some Europeans in the townships living on leased land. All three Rohe Potae townships were proclaimed native townships in 1903.<sup>12</sup>

Otorohanga township was in the north of the Rohe Potae and situated on the North Island main trunk railway. It was already a well-established township when it was proclaimed. Government services were located in the town and the Native Land Court was also situated there. In 1903, when the town was proclaimed a native township, the land was laid off into approximately 292 sections. Leases were advertised in 1904, and Otorohanga was described as the oldest European settlement in the King Country. However, before 1903 Europeans could not obtain valid titles in the township. The township was described as being some 36 miles south of Hamilton and 12 miles north of Te Kuiti. In 1904, there was a daily train service to Auckland and the township boasted a number of thriving businesses including a sawmill. There was a school, a temperance hotel, a church, and a nearby

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9. NZPD, 1903, vol 126, pp 165–166

10. Surveyor General to Minister of Lands, 12 January 1900, quoted in Woodley, p 16

11. NZPD, 1910, vol 151, pp 271–272

12. Te Kuiti and Otorohanga proclamation, 29 January 1903, *New Zealand Gazette* 1903, p 254; Taumarunui proclamation, 3 May 1903, *New Zealand Gazette*, 1903, p 2506

Figure 7: Native Townships in the Rohe Potae

dairy factory. There was a road from Otorohanga to Kihikihi, Te Awamutu, and places north. Otorohanga was described as being within easy distance of the celebrated Waitomo caves and as the nearest place to them with proper accommodation. Tourists could also go trout fishing in the nearby Waipa River. Advertisements optimistically declared that there was a great deal of Crown land in the vicinity and large amounts had already been taken up. In later years, Otorohanga became mainly a service town for dairy and sheep farming.<sup>13</sup>

Te Kuiti was another well established township when it was proclaimed a native township in 1903. It was situated south of Otorohanga, some 48 miles south of Hamilton, at the mouth of a limestone gorge on the Mangeokewa stream. It was also situated on the main trunk railway. When it was proclaimed a native township over 200 sections were laid off.<sup>14</sup>

Taumarunui was in the southern part of the Rohe Potae and was also on the main trunk railway some 100 miles south of Hamilton. The 1905 advertisements for leases described it as the northern gateway to the 'Rhine of New Zealand', the Whanganui River. Taumarunui was the last stop south on the main trunk railway line at the time. It was promoted as an ideal stopover for tourists before carrying on to either the central North Island mountains or down the Whanganui River to Pipiriki and Wanganui. The railway had also provided access to the timber lands around Taumarunui, particularly the totara forests, and this was also advertised as presenting opportunities for the township to service the growing sawmilling industry of the time.<sup>15</sup>

Statistics on the size of the three townships vary. A report in 1906 described Otorohanga as just over 243 acres, Te Kuiti as just over 238 acres, and Taumarunui as 342 acres.<sup>16</sup> According to the Stout–Ngata commission report, the total area of land in the three townships in 1907 was just over 893 acres.<sup>17</sup> All three townships were vested in the Maniapoto–Tuwharetoa District Maori Land Council.

According to Woodley, the three King Country townships were all proclaimed as a result of settler agitation.<sup>18</sup> Woodley cites evidence that rumours were widespread from at least 1900 that officials were planning to proclaim Te Kuiti and Otorohanga as native townships. In September 1900, John Ormsby wrote to Seddon asking him to defer plans for the townships until Maori were fully consulted. Officials then apparently conceded that the Maori owners should be consulted as there were thousands of pounds of improvements in the townships. Ormsby was sent a plan of the proposed Te Kuiti township for consideration.<sup>19</sup> In September 1900, Hone Heke, the member of Parliament for Northern Maori, also wrote to the Minister of Lands about the rumoured townships at Te Kuiti and Otorohanga. McKenzie replied that Ormsby had been sent the plan for Te Kuiti and there was no proposal yet for Otorohanga. It seems in fact that a draft plan of Te Kuiti township had been

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13. 'Report of Commission on Maori Reserved Land', 1975, AJHR, 1975, H-3, pp 234–235

14. Ibid, pp 239–40

15. *New Zealand Gazette*, 1905, p 2978; acreages are given in MA series 19/9 N06/269

16. Report by Puckey 22.6.1906 in N06/269 in MA series 19/9

17. Stout–Ngata report, AJHR, 1907, G-1b, p 7

18. Woodley, p 15

19. Woodley, p 17 citing Te Kuiti native township file LS1, no 42821 in box 416

prepared in May 1900 and the proclamation drafted in June 1900 without any consultation with owners. It was only when Ormsby asked for information that officials conceded that the Maori owners ought to be allowed some say.

It seems that officials were originally responding to European pressure to have the townships proclaimed. For example, Woodley cites continued pressure to proclaim Te Kuiti a township in 1901.<sup>20</sup> Carroll reported to Parliament in 1903 that the few Europeans living in Te Kuiti had complained about their inability to gain legal title for land they were informally leasing from Maori owners. Carroll had visited and met with the Maori owners and 500 acres had been 'handed over' to Carroll.<sup>21</sup> More research is required into negotiations with Maori owners over the proposed townships. It seems likely that when Maori owners realised that plans for the townships were underway, they responded by pressing to have them vested in the district Maori land council. Woodley argues that when the plan for Te Kuiti was put to Maori again in 1903, there had still been little consultation. For example, sections lived on by Maori were proposed as reserves. In the end, the district Maori land council submitted an alternative plan which was adopted, Government officials having reluctantly acknowledged council authority in the matter.<sup>22</sup>

In Parliament in 1910, Carroll also referred to visiting Taumarunui in 1904 to 'treat with Natives for the surrender of the land' for the native township.<sup>23</sup> However, more research is also required on the background to these negotiations as, for example, among the official reports on the townships and the itemised costs, there is mention in 1904 of the costs associated with opposition from Maori in Taumarunui.<sup>24</sup> Carroll also claimed that the townships created under the 1902 Act were the most successful in terms of leases taken up, but this may well have been because the lessees believed in these cases that the leases would be perpetual.

The subsequent history of these townships has raised a number of issues about the Crown's commitment to the protection of Maori interests, the Crown's willingness to balance conflicting Pakeha and Maori interests, and the Crown's commitment to enabling Maori to participate in modern economic developments and opportunities. In general much of this history appears to confirm Heke's fears that the Crown would inevitably tend to give priority to settler interests.

It was not long before the Crown began a series of legislative measures that from 1905 effectively eroded Maori control and influence over the boards managing the native townships. The Maori Land Settlement Act 1905 abolished the Maori land councils. It had been possible to have a Maori majority on the councils and the Maori membership had been partially elected. The councils were replaced by boards, which were wholly Government-appointed and there was only one Maori member. The previous self-management powers in the townships were now effectively handed over to a European-dominated board. In the same year the Native Townships Local Government Act 1905 provided for a local council to be elected to provide local government for a native township. In the first election the

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20. Woodley, p 18

21. Ibid, p 17

22. Ibid, p 18

23. NZPD, 1910, vol 150, p 272

24. AJHR, 1904, C-1, app 2, p 81

Government would appoint one Maori member to the five-person council. In subsequent elections the five members would be elected as under local body election rules (ss 3, 4, 8).

It is also clear that from the time they were created, there was considerable European pressure for the Government to freehold the township lands and then on-sell the land to those lessees who wanted to buy it. For example, in 1907, 85 European settlers in Te Kuiti asked for the option to freehold the land they were leasing. At that time, in a long debate in Parliament, Carroll and Ngata insisted that freeholding would be detrimental to Maori.<sup>25</sup> However, pressure for freeholding continued and the Native Townships Act 1910 was a response to this. According to Ward it was also a response to the immediate political need of the Liberal Government to hold the seat of Taumarunui against Massey and the Reform Party in the 1911 election.<sup>26</sup>

The Native Townships Act 1910 repealed and replaced the 1895 Act, while preserving existing leases. The Act made the Maori land boards leasing authorities (s 13) and vested Maori township land in the boards to be held in trust for the beneficial owners, and to be administered by the boards. All reserves made in the townships were vested in the Crown as public reserves under the Public Reserves and Domains Act 1908. Leases could be made perpetual, and native allotments could be leased with the consent of the owners. Township land could also be sold to the Crown with the consent of the owners, or sold privately with the consent of the owners and the Governor in Council.

Some of the Maori members of Parliament protested against the provisions allowing the freeholding of leases, alleging that they breached the original terms creating the townships.<sup>27</sup> Nevertheless, the new provisions were passed into law. As a result, sales of land in the townships increased in momentum from 1910 and leases decreased.<sup>28</sup> The Crown also embarked on strenuous efforts to purchase land from Maori owners to speed up the process of freeholding.

The three Rohe Potae townships were no exception to this pattern. In Taumarunui, for example, the Crown purchased two large blocks in the township in 1915, on the agreement of a resolution of assembled owners and confirmation by the district Maori land board. The Crown made further strenuous efforts to buy up the township land and in about 1916 proposed to buy up the whole township to on-sell, in the interests of more rapid development. At a meeting of assembled owners in March 1919, the President of the Maori Land Board, Judge McCormick, advised the owners to sell the whole township to the Government. However, the Government's offer, turned out to be half the Government valuation of the land and the sale did not proceed. In the war years, the Government was not prepared to buy at the valuation price and the proposal lapsed. The Crown continued, however, to buy up township land on a piecemeal basis.<sup>29</sup>

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25. NZPD, 1907, vol 142, p 176

26. Ward, 'Whanganui ki Maniapoto', p 116

27. Woodley, p 27

28. Ibid, p 29

29. 'Report of Commission of Inquiry into Maori Reserved Land', AJHR, 1975, H-3, pp 241–243

Similarly, in Te Kuiti native township, shortly after the 1910 legislation, the Crown set about buying up all the shares in township land that it could, whether or not the lessees had undertaken to purchase them from the Crown. By 1924, the Crown had acquired the freehold of all but a few sections.<sup>30</sup> According to Woodley, most of the early Crown purchasing took place in the early 1920s and by 1927, based on figures where alienations were approved by the district Maori land board, over 50 per cent of the land in the three townships had been sold.<sup>31</sup>

It appears that the Crown took an active role in these early purchases. In some cases, the Government agreed to proceed with the acquisition of the freehold if there were sufficient applications received by the settlers. The settlers were required to pay a deposit to the Crown as evidence of their intention and when the Crown decided enough applications had been received, land purchase officers set about systematically buying up shares in sections required by settlers. Considerable pressure was placed on owners to sell where sections were required but little effort was made to acquire land settlers did not want.<sup>32</sup> However, in Te Kuiti, the 1975 Maori reserved land report noted that the Crown through the Lands and Survey Department set about acquiring all the land it could there, regardless of whether or not tenants wanted to purchase it from the Crown.<sup>33</sup>

The necessity of freeholding to allow townships to ‘progress’ was a constant refrain from settlers and the Government. It is true that lessees did face some difficulties, although this was often the result of the Government losing interest in completing its obligations, for example in failing to provide adequate access roads or sufficient provisions for local government.<sup>34</sup> However, there was rarely the same agitation about speculators buying up many of the freehold sections and then simply waiting for values to improve. This was in spite of the fact that officials often believed that this was the real reason for a lack of progress in many townships.<sup>35</sup>

The agitation for the Government to assist in freeholding native lands in the townships continued in a series of cycles for many years until freeholding was virtually completed. Although private sales were possible, the fragmentation of ownership and the need to adjust titles and interests to coincide with the land lessees wanted to buy meant that the Crown continued to be asked to carry out purchasing on behalf of lessees. Partitions followed and when the Crown had acquired the freehold of all the land in any lease, it sold the land to the lessees for either cash or deferred payments.

The Crown acknowledged that it was often caught out over this process, as after having gone to the trouble of buying up interests and having partitions made, many lessees then failed to carry out their purchase contracts, causing the Crown

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30. *Ibid*, p 239

31. Woodley, p 29

32. *Ibid*

33. ‘Report of Commission of Inquiry into Maori Reserved Land’, AJHR, 1975, H-3, pp 239–40

34. For example, see the correspondence regarding the completion of Pipiriki roads 1904–05 on LS1, file 26153 box 163.

35. ‘Report of Commission of Inquiry into Maori Reserved Land’, AJHR, 1975, H-3, on Tokaanu township, p 245

considerable losses. For example, the Crown was less keen to respond after another round of agitations in the 1950s, as a result of the losses it had made in this way in the 1920s.<sup>36</sup>

Nevertheless, the legal provisions had the intended result and the Maori land in the townships was rapidly freeholded. Another result of the 1910 Act was that land could be perpetually leased. This meant Maori received notoriously low rentals and lost effective control of their land. Most of this later history is outside of the time period of this report. However, in brief, half the land in the three townships was already sold in the first two decades of this century. By 1975, when the Commission on Maori Reserved Land reported, only a few acres of Maori land remained in the townships and most of that was leased.<sup>37</sup>

## **8.2 DISTRICT MAORI LAND COUNCILS AND BOARDS**

In the late 1890s, new purchases of Maori land were stopped and a new system of Maori land administration was created and introduced in the Maori Councils Act 1900. A more detailed administrative history of the district Maori land councils and later boards created under this system is contained in reports by John Hutton.<sup>38</sup>

The Liberal Government appears to have adopted the new system in an attempt to overcome the problems becoming evident in acquiring Maori land under the purchasing system of the 1890s. The new system also had some support from Maori in that it appeared to be offering more Maori control over remaining Maori lands. The preamble to the 1900 Act described the apparent compromise between Maori and settler interests:

Whereas the chiefs and other leading Maoris of New Zealand, by petition to Her Majesty and to the Parliament of New Zealand, urged that the residue (about five million acres) of the Maori land now remaining in possession of the Maori owners should be reserved for their use and benefit in such wise as to protect them from the risk of being left landless, and whereas it is expedient, in the interests of both the Maoris and Europeans of the colony, that provision should be made for the better settlement and utilization of large areas of Maori land at present lying unoccupied and unproductive . . .<sup>39</sup>

The 1900 Act established district Maori land councils in the North Island, which was divided into six districts. These districts were equivalent to the Native Land Court districts. The councils had at least equal Maori and European membership and the potential for a Maori majority. Up to three (out of seven) members could be elected by Maori and one Maori member was to be nominated by the Governor

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36. MA1, 54/16/5, accn 2490, fols 5, 9

37. 'Report of Commission of Inquiry Maori Reserved Land 1975', AJHR, 1975, H-3, pp 231–245

38. John L Hutton, "'A Ready and Quick Method": The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905–30', report commissioned by the Crown Forestry Rental Trust, 1996; 'The Operation of the Waikato–Maniapoto District Maori Land Board' report commissioned by the Crown Forestry Rental Trust, 1996

39. The Maori Councils Act 1900

(s 6). The Maori land councils could exercise all the powers of the Native Land Court, including those concerned with ascertaining ownership, partition, and succession, but not until directed to do so by the Native Land Court (s 9).

Maori owners could voluntarily transfer their lands to the councils through deeds of trust. The council would then manage the vested lands on terms agreed in writing between the owners and the council (s 28). Management was to be mainly by way of leases. The sale of land held in trust (later called ‘vested’ lands) was not permitted. Some areas of vested lands could be made inalienable or reserve land, and then could not be leased. These reserved lands could be used for burial grounds, eel weirs, fishing grounds, protection of native birds, or for conservation of timber for future use. The councils also had powers additional to managing the vested land. All other sales of Maori land in the district were prohibited unless first approved by the council. Where there were more than two owners the consent of the Governor in Council was also required. The council also had to be satisfied that a Papakainga area existed sufficient for the ‘maintenance and support and to grow food’ for every Maori man, woman, and child affected by the sale (ss 21, 23). Papakainga areas were absolutely inalienable.

The Native and Maori Land Laws Amendment Act 1902 enabled native township land to be vested in Maori land councils. The councils were given certain management powers in relation to the native townships, and all three Rohe Potae native townships were proclaimed under this system, as already described.

The district Maori land council responsible for Rohe Potae lands was originally called the Hikairo–Maniapoto–Tuwharetoa District Maori Land Council. In 1902 this name was shortened to the Maniapoto–Tuwharetoa District Maori Land Council for convenience. Iwi leaders had asked that the name be changed to Turongo, the name of a common ancestor, because the Government name was too long and cumbersome. However, the Government apparently preferred to simply drop the word Hikairo.<sup>40</sup> Ngati Maniapoto and Ngati Tuwharetoa leaders agreed to be covered by the one council.<sup>41</sup> There were some disputes about the boundaries with the Waikato district. This apparently delayed the declaration of these council boundaries, and personnel were not appointed until 1902.<sup>42</sup> In 1901, for example, representatives of Rohe Potae hapu and iwi wrote to the Native Minister and referred him to the boundaries of the Rohe Potae as defined by the confederation of iwi in the 1883 petition. They claimed that those boundaries were now recognised by Maori as a separate district. They wanted them retained, and rejected having some of the district included in the Waikato district boundary.<sup>43</sup>

The first president of the council was none other than G T Wilkinson, who was appointed in 1902. He was already well known to Maori in the district as a Government land purchase officer. He apparently continued completing his purchases of Maori land even while he was president and almost up to his death in 1906.<sup>44</sup> Other Government appointments were John Elliot of Mahoenui, and John

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40. MA series 19/9 MLA 1902/8 attached

41. Te Heuheu and Taonui to Seddon, 24 October 1900, MA-MLA, 1901/34

42. MA series 19/2 Maori land boards – general and MA series 19/9 MLA 1901/225 attached

43. Letter to Seddon 18 January 1901, MA-MLA, 1901/34

44. See, for example, AJHR, 1905, G-3, p 3 (lands partially acquired in Rohe Potae)

Ormsby of Otorohanga.<sup>45</sup> The first elected Maori members to the council were Pepene Eketone, Erueti Arani, and Te Papanui Tamahiki.<sup>46</sup> The council apparently first held meetings at Otorohanga but by 1907, what was by now the board, was located at Auckland where the Native Land Court judge was based.

There was considerable pressure for the council system to make Maori land available for settlement from the time the councils were first established. For example, Wilkinson and other presidents who were previously land purchase officers, such as Butler in Aotea, now tried to get as much land as possible vested in the councils using their old strategy of seeking out and signing up individual interests. For example, in 1903 Wilkinson suggested that he start acquiring signatures to have the Rangitoto Tuhua 3 block vested in the council, if the Crown did not want to purchase it. A majority of signatures was binding.<sup>47</sup> In 1904, he reported on transfers of parts of the block to the council. He noted that others had been partly signed but that he had been too busy lately to go ‘after signatures’.<sup>48</sup> A 1902 progress report on an Aotea block partition also reveals that individual signatures were being sought so that once a majority had been obtained, the land could be vested in the council.<sup>49</sup>

It seems clear that regardless of legislative possibilities for Maori representation on the councils, the Government intended that they were to be effectively controlled by Europeans. The president was required to be a European. It was also assumed that one of the European members would act as deputy president if the need arose. For example, in 1903, Carroll assured Mr Jennings, a member of the House of Representatives, that: ‘the European member of the Council will not infrequently be called upon to act as Deputy President’. Sheridan also regularly asked the European presidents for the names of likely Maori candidates as Maori members to ensure those appointed would be more likely to be amenable to the president’s views.<sup>50</sup>

It is clear that Maori owners and their elected representatives on the councils were strongly opposed to leases being made perpetual. However, there was considerable settler pressure for this and apparently some presidents and some Government officials and Ministers assumed it was possible although in the early years at least, this was legally doubtful. There is evidence, for example, that as early as 1903 Carroll informed the Bank of New Zealand that it could not buy a site it wanted in native township lands but referred it to regulation 9(7) of the regulations published in the *New Zealand Gazette* of 26 February 1903. He felt this meant that ‘practically’, a perpetual lease could be arranged with the council. Sheridan then informed Wilkinson that when he was dealing with township lands he should not overlook the same regulation as it provided for what was practically a perpetual lease.<sup>51</sup>

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45. MA-MLA 1905/63, MA-MLA, box 1/4

46. *New Zealand Gazette*, 1902, vol 2, p 636

47. Wilkinson report, MA-MLA 1903/88, box 1/2

48. Wilkinson report, 25 July 1904, MA-MLA 1904/76, box 1/3

49. MA-MLA 1902/67, box 1/2

50. MA-MLA 1903/174, box 1/2

51. MA-MLA 3/1, outwards letterbook 1901–08, pp 271, 273

However, the system did not produce land for European settlement as quickly as had been hoped and even by the time the Stout–Ngata commission reported in 1907, the Government had become impatient with the resistance shown by Maori owners. In March 1905, Carroll was sent a telegram of Seddon’s speech notes. These indicated that Seddon supported the new system of Maori land administration in the belief that if Maori were able to farm the land they wanted, they would then make their surplus land available for settlement. He wanted nothing compulsory but he believed that the advantages of settlement should be offered to enable Maori to farm their own land. He was sure that Maori would then voluntarily hand over surplus land to be settled. He also believed that Maori should have access to advances so that they could farm their own land and there was a need for interests to be consolidated so land could be usable. In the notes, Seddon complained that there had been too much taihoa and that the councils’ work was entirely too slow. He wanted a more progressive land policy to make things happen much faster.<sup>52</sup> Seddon was still complaining to Sheridan of too much taihoa in council activities in November 1905. He marked papers on the Motatau blocks in the Tokerau district as ‘Urgent Pressing’ and instructed Sheridan: ‘Kindly put some life into this matter. There is too much “taihoa”.’<sup>53</sup>

The Government response was a major change in legislation in 1905, within just five years of creating the councils and it did, in fact, contain compulsory provisions. The Maori Land Settlement Act 1905 effectively removed the Maori majority on the councils and reconstituted them as boards. Instead of being partially elected, the boards were now wholly appointed with one Maori and two Pakeha members, including the chairman. In addition, where it was decided that land was not required or not suitable for occupation by its Maori owners, it could be compulsorily vested in the boards. After reserving portions for the use and occupation of the Maori owners, the rest could be surveyed, subdivided into allotments, and the allotments disposed of by the boards for any term of up to 50 years (s 8). All restrictions on alienation were also removed so that private leases could be made with the approval of the board. There were some facilities for the Government to lend money to Maori owners to improve their land. Although the Bill was originally meant to allow only alienation by leasing, the Government inserted section 20 which allowed the Crown to purchase land from owners. In a 1906 amendment, lands could also be compulsorily vested in boards where there was a problem with noxious weeds (s 3) or where the Minister felt that land was not properly occupied by Maori (s 4).

The nearby Aotea Maori land district was the only one in which substantial quantities of land were vested in a district Maori land council or board. Some 100,000 acres were vested in the Aotea board by 1907.<sup>54</sup> In contrast, very little land was voluntarily vested in the Maniapoto–Tuwharetoa District Maori Land Board. Ngati Maniapoto still preferred to manage their own lands themselves and the problems encountered by Maori owners in the Aotea district may also have

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52. MA-MLA 1905/20 in box MA-MLA 1/4

53. Memorandum from Seddon to Sheridan 28 November 1905, MA-MLA 1905/73, box 1/4

54. Stout–Ngata commission report, AJHR, 1907, vol 3, G-1a

hardened this approach.<sup>55</sup> The Stout–Ngata commission reported in 1907 that of Ngati Maniapoto lands, only the three native townships in the district, totalling 893 acres, plus the Maraetaua 10 block of 1800 acres, had been vested in the district Maori land board.<sup>56</sup> Instead, Ngati Maniapoto still preferred leasing land themselves. The commission also reported that the board had been asked to approve the leasing of some 120,000 acres of Ngati Maniapoto land.

The Stout–Ngata commission also reported that the board may have lost mana as far as Ngati Maniapoto was concerned when the Crown continued purchasing land intended for vesting in the board once title was sorted out. This may have also raised Ngati Maniapoto suspicions about the extent of Government support for the board.<sup>57</sup> The Stout–Ngata report raised a number of other problems with the boards such as the system of council management, where lands were surveyed and necessary roads built before the land was leased. These costs then had to be paid back before rents were received. Maori could not help noticing that these costs did not arise to the same degree when they leased privately. In effect they were being asked to partly fund the settlement of European farmers on their land. Ngati Maniapoto also complained that the board was no longer physically located in the Rohe Potae. The Stout–Ngata commission also described the ways in which Maori land could now be alienated. This was by sale to the Crown or private persons with certain conditions, or by lease, either directly or through the boards.<sup>58</sup>

The new president of the Maniapoto–Tuwharetoa board, Puckey, described Ngati Maniapoto preferences in 1906: ‘Maoris in this district have shown the same reluctance to convey their lands to the Council as the Natives in other parts’. He confirmed that instead they preferred to lease directly to Europeans. He noted that apart from township lands and other lands conveyed by the owners to the council, considerable areas had been vested in the council for administration. This was:

not however by conveyance from the Native owners, but owing to moneys becoming due for survey costs, the surveyors or their representatives pressing for payment, the Government to prevent the sacrifice of the lands paid the liens and vested the lands in the Council.<sup>59</sup>

This sounded very familiar. It seems clear that Maori owners were still determined to manage their lands themselves. Puckey complained that: ‘the Natives have kept back their good lands, and transferred to the Council those blocks only, which they could not deal with themselves’. Puckey noted that the major part of the work brought before boards was in fact applications for consent to lease:

this mode of dealing seems to meet with greater favour with the Natives for it allows them a say in the settlement of terms etc, though I think it is the more expensive course.<sup>60</sup>

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55. S Katene, ‘The Administration of Maori Land in the Aotea District, 1900–1927’, MA thesis, Victoria University of Wellington, 1990

56. Stout–Ngata commission report, p 7, AJHR, 1907 G-1b

57. Stout Ngata report, p 7, AJHR, 1907 G-1b

58. AJHR, 1907, G-1c, pp 7–8

59. MA series 19/9, report by A F Puckey, 22 June 1906, N06/269

The 1907 Stout–Ngata commission was actually established to investigate the areas of Maori land that were unoccupied or not profitably occupied, and to propose methods by which such lands could be best utilised and settled in the interests of the native owners and in the ‘public good’. The commission then made recommendations on land to be sold, leased, or retained for Maori use. This compromise was supported by Carroll and Ngata to try and save as much land for Maori as possible, while blunting Opposition demands for even wider compulsory measures concerning the acquisition of Maori land. Wherever alienation was considered necessary, Carroll and Ngata tried to promote the alternative of leasing rather than freeholding land. With the leasing they also tried to ensure that at least the land would be returned to Maori in a generation or two in good condition.

The Native Land Settlement Act 1907 was supposed to give effect to the commissioners’ initial recommendations. Where it was reported that land was not required for use by Maori and was available for sale or lease, the Governor could proclaim such land vested in the native land board of the district in fee simple, in trust for the Maori beneficial owners. The beneficial owners were then prevented from direct dealing with the land. However, the board was then required to divide such land into two approximately equal portions and set one apart for leasing and the other for sale (s 11). This was apparently a concession to those powerful interests who opposed leaseholding altogether. Where land was suitable for close settlement, the subdivision into allotments was authorised. Sale or lease was to be by public tender or auction to establish a market. Leases were for up to 50 years without right of renewal but with entitlement to be paid for improvements.

The board was to establish a sinking fund from rents to pay for such improvements. Funds for surveys, roads, and bridges would be charged against the land. After development costs, administration costs, rates, and taxes, the balance if any, would be payable to the Maori owners. The board could also sell the land to the Crown (s 53). Ngata introduced clauses in Part ii of the Act that allowed land recommended for Maori occupation to be leased through the board to recommended Maori lessees without competition. The first offer was to go to the owners themselves. Maori lessees could also borrow money on the security of their leasehold interest.

There were some features of the Act that Maori welcomed. Having commissioners go to hapu and consult them about the land was regarded as a major improvement in that it was a means of recognising hapu wishes and of dealing publicly over land at a hapu level. This was a welcome alternative to the secretive individual dealing in land by Crown purchase agents which had undermined hapu authority and brought about very low prices. The Act also allowed for leasehold and for assistance for Maori owners to farm their own land.

However, the 1907 Act, as it was eventually passed, was also coercive and authoritarian. While half the land vested would be leased, it required that the other half be sold. This in effect cut across any recognition of hapu wishes as half of all land vested would be sold regardless of what hapu wanted. In addition, the board

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60. Ibid

was now able to sell vested land to the Crown at an agreed price, even though at the time the land may have been vested it was regarded as being protected from sales.

The flaws of the 1907 Act quickly became apparent when the Stout–Ngata commission resumed its work. When hapu found that half the land vested in the board had to be sold they responded with a widespread refusal to vest. The commission's inquiries and recommendations were also undermined by the Crown's own purchasing policy, which was that the Crown continued to buy up land where it could, even where this was land the commission had recommended should be retained for Maori use. The whole system of consultation with hapu was therefore again fatally undermined.

Another blow was delivered to the original scheme with the establishment of a native land purchase board under the Native Land Act 1909. This Act was in effect a massive consolidation of Maori land law with additional provisions. The 1909 Act established a system of Maori land administration that lasted until the 1960s. The Act provided that if there were only a few owners they could alienate their land by agreement. If there were more than 10 owners, alienation could be agreed by a meeting of owners following a set procedure. Either way effectively undermined any possibility of iwi or hapu control over the land. The 1909 Act also removed all restrictions on alienation then in existence (s 207). The board still had to approve each alienation and be satisfied that no owner would be made 'landless' but this provision was poorly defined and in practice appears to have had little effect.

Maori land could now be alienated privately by the owners themselves, by the Maori land board as the statutory trustee or agent of the owners, by a committee of management by the incorporated owners, and in pursuance of a resolution of a majority of owners assembled in a meeting called for that purpose by a board.<sup>61</sup> An administrative change was made to the Maniapoto–Tuwharetoa District Maori Land Board in 1910. It was amalgamated with the Waikato District Maori Land Board and reconstituted as the Waikato–Maniapoto District Maori Land Board.<sup>62</sup>

In 1913, all pretence of Maori representation on the boards was dropped. Under the Native Land Amendment Act 1913, the membership of the boards was reduced to two, the judge and the registrar of the Maori Land Court in the district. Effectively, this appears to have concentrated power in the judge, as given their relative positions registrars were generally deferential to judges. For Maori, the wheel had come full circle. The attempt to establish an alternative to the Native Land Court had effectively been eliminated.

Instead, Maori found that the management of their remaining lands had again been effectively removed outside their control. Their aspirations for self-management of their land had been set aside in favour of administration by Government-created agencies, largely run by Pakeha and apparently concerned above all with the interests of European settlement. The boards now effectively had control of the remains of the land originally vested, plus land compulsorily vested, as well as overall decisions on approving all sales of Maori land in the district.

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61. Hutton, "A Ready and Quick Method": The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905–30', p 34, quoting Judge Fisher in *The New Zealand Yearbook*, 1910, p 714. See also Hutton, pp 35–44, for a more detailed description of methods.

62. Hutton, 'The Operation of the Waikato Maniapoto District Maori Land Board', p 8

It is beyond the scope of this report to investigate all possible issues raised by the administration of district Maori land councils and boards. Briefly, however, some issues that seem to arise from even preliminary research include the implications of boards approving sales, such as how well they met their obligations to protect important sites like urupa from alienation, and how well they ensured that Maori were not left landless or without sufficient land for their livelihood. Issues have also been raised about the boards' assumption that Maori only had an economic interest in land. The large area covered by the board also apparently raised some concerns because the small number of Maori members were not felt to be representative of all the major interests in the district. Possible conflicts of interest in the appointments to boards also arose, such as the appointment of G T Wilkinson to the Maniapoto–Tuwharetoa board. Cabinet also approved the appointment of P Sheridan, head of Government land purchase in the 1890s, to be superintendent of the new Maori Land Administration Department in October 1900, which controlled the district land councils and boards.<sup>63</sup>

Hutton has pointed to settler pressure for the appointment of members that would protect or further their interests, and the problems of lack of adequate resourcing for the boards.<sup>64</sup> The boards were also under increasing pressure from settlers who could not tolerate seeing 'idle' Maori land but were unable to recognise that Maori preferred a different pattern of land settlement. As president, Wilkinson noted in 1904, for example, that pressure from county councils and road boards for 'idle' native lands really stemmed from perceptions that the land was 'idle' because Maori were not living on it in the way that settlers expected. Wilkinson explained that settlers failed to appreciate that Maori still preferred to live together in a 'communistic manner' in their Maori kaingas, with their land surrounding them, instead of following settler preferences for living spread out over scattered, isolated farms. Settlers therefore assumed that the relatively large areas of land surrounding Maori kainga seemed idle and 'unused'.<sup>65</sup>

There are also issues of Government and board policies that appeared to put successful leasing before Maori aspirations to farm their own land, and quick action where settler interests were concerned in contrast to long delays where only Maori had an interest, such as in the creation of papakainga reserves.

Hutton has described how the Native Land Act 1909 reconstituted Maori land boards so that their principal purpose was to facilitate the alienation of Maori land.<sup>66</sup> In general, the legislative changes appear to have produced the expected results. The constraints on sales were also lifted by the Massey Government between 1912 and 1921, even though by then there was clear evidence that the Maori population was increasing and there was likely to be insufficient land left for future Maori needs.

Brooking has described how from 1909, the Government began another massive programme of purchasing Maori land. The mix of both Crown and private purchasing was so effective that by 1920 Maori overall owned less than five million

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63. MA-MLA 1905/63 Cabinet decision of 24 October 1900

64. For example, Hutton, 'The Operation of the Waikato Maniapoto District Maori Land Board', pp 10, 13

65. MA-MLA 1904/72, box 1/3

66. Hutton, 'The Operation of the Waikato Maniapoto District Maori Land Board', p 18

acres. Of this, over three million acres was leased leaving Maori with less than one million acres of economically usable land. The Stout–Ngata commission reported that since Crown purchasing had resumed in 1905, a further 69,390 acres had been purchased by the Crown in the Rohe Potae (Aotea block), although most of these were of interests where the sale still had not been completed. Private individuals had purchased another 17,818 acres.

Purchasing continued after this, and in line with Maori land elsewhere, significant purchasing is likely to have occurred between 1909 and 1920. However, it is very difficult to separate out purchasing statistics for the Rohe Potae (Aotea block) for the years 1909 to 1920 because the district was effectively obliterated as an entity for the purposes of collecting official statistics from this time. It was split between two Native Land Court districts and two Maori land board districts. It was also subsumed into a much larger district under the amalgamated Waikato–Maniapoto board in 1910. Sales and lease statistics for the Rohe Potae (Aotea block) for these years may therefore require a much more time consuming block-by-block search than has been possible for this report.<sup>67</sup>

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67. AJHR, 1907, G-1b, pp 4, 10