

6. NATIONAL PARKS

our national parks become havens of refuge where the vegetation, and also those indigenous animals whose presence depends upon forest or meadow, may exist unmolested and remain intact.

Leonard Cockayne, 1908

6.1 INTRODUCTION

National parks are among the most important national and international symbols of the protected New Zealand environment. Together with the smaller scenic reserves, with which they had common origin in the late nineteenth and early twentieth centuries, national parks are the places that the Crown has acquired in order for New Zealanders and tourists to experience nature relatively untouched by the modern world.

Through the provision of legislation that ‘the native plants and animals of the parks shall as far as possible be preserved and the introduced plants and animals shall as far as possible be exterminated’,¹ the national park concept has been a significant factor in Crown actions concerning the indigenous flora and fauna. The language of modern ecology did not exist when the idea of national parks was first conceived of in New Zealand. Yet the national park concept recognises ecosystem principles, not least the landscape scale at which many vital processes in indigenous New Zealand ecosystems operate. Thus national parks tend to be very extensive areas of country compared to scenic reserves. They are also predominantly in upland and mountainous environments, where the Crown had extinguished native title long before it sought to create national parks,² and where the contest between Maori and Pakeha over natural resources has been relatively limited. Scenic reserves, in contrast, are generally located in the highly contested lowland and coastal environments.

While the indigenous flora and fauna are an elemental component of New Zealand’s national parks, the cultural notion of land as scenery, and the aesthetics and economics of landscape appreciation implicit in tourism have predominated in the laws and policies of national park establishment, administration, control and management. The core principle of

1. Section 3(2)(b) of the National Parks Act 1952

2. The first national park in New Zealand, Tongariro, is an exception. It is discussed below.

national park law in New Zealand is that the parks comprise land with 'scenery of such distinctive quality, and ecological systems or natural features so beautiful, unique, or scientifically important that their preservation is in the national interest'.³ The Act's provision for 'indigenous flora and fauna to be preserved as much as possible' falls within the ambit of this more general principle.

Almost all the national parks were established because of their landscape features. Some were amalgamations of scenic reserves which had been developed for aesthetic reasons and to service a tourist industry.⁴ Tourism was a significant economic factor in establishing the first parks and reserves at the beginning of the twentieth century. At the century's end, it was again playing an important role. In the late 1990s, 55 per cent of overseas visitors went to at least one national park. The average visitor made three visits, on which bush walks and scenic boat cruises were the most popular activities. A quarter of the entire budget of the Department of Conservation was devoted to tourist servicing.⁵

National parks are in many ways simply large-scale scenery preservation. They derive from the same root aesthetic in the modern Western view of nature. Indeed, some national parks, notably Te Urewera and Whanganui, derive directly from the scenery preservation principle or from an aggregation of many scenic reserves into a single administrative unit. National parks in New Zealand are fundamentally about viewing or otherwise experiencing nature's ecosystems as a visitor. They actively exclude human habitation or use in any other form. Thus, the relationship between the national park idea and the indigenous flora and fauna is very different from that which is implicit in the rangatiratanga principle of article 2 of the Treaty of Waitangi and its guarantee to Maori in respect of natural resources: the right to continue a relationship with those resources that was as much about their use as about their conservation.⁶

In historical terms, the national park concept is, like scenery preservation, a product of a late-colonial celebration of the indigenous landscape of New Zealand that emerged from the earlier colonial imperatives of acclimatisation and displacement of the indigenous. Both national parks and scenery preservation essentially treat the indigenous flora and fauna and their ecosystems as living museums. Nature is on display; the illusion is created of a primeval wilderness unaltered by human hands, just as the indigenous flora and fauna might have appeared long before the arrival of settlers from Britain and the rest of Europe.

3. Section 1 of the National Parks Act 1980

4. Most notably, Whanganui National Park, which was not created until 1985. See section 5.2.3 of chapter 5.

5. Ministry for the Environment, *The State of New Zealand's Environment*, Wellington, 1997, p9.39

6. Diane Crengle, *Taking Into Account the Principles of the Treaty of Waitangi*, Ministry for the Environment, Wellington, 1993. Concerning this principle of 'Active Protection' Crengle cites the 1987 Court of Appeal decision in respect of the transfer of lands and properties to State Owned Enterprises (1 NZLR 641) that the duty is not passive, but extends to active protection of Maori in the use of their resources and other guaranteed taonga.

The national park idea as it was instituted in New Zealand in the late nineteenth century, and as it evolved between 1912 and 1983, has been an imperative of the Pakeha culture. The core idea in the minds of the Crown officials who, in the 1940s, shaped the initial general legislation, was that national parks were predominantly ‘wilderness areas’ in which ‘the flora and fauna are interfered with as little as possible’.⁷ Seldom, however, is the extent to which national parks are a Pakeha idea expressed in the Crown record in terms of its impact on Maori. A rare instance is an early proposal from Crown officials in the 1930s, concerning what became Te Urewera National Park. Preservation, the officials said, was ‘in European interests desired . . . which must impose certain restrictions on the Maoris use of their own bush’.⁸

The idea of ‘wilderness areas’ first appeared in national park legislation in the National Parks Act 1952. By the late 1970s, the wilderness concept had become a key element of national park policy. It was central to effecting ‘the protection of the natural features, scenery and native flora and fauna’ that the Crown considered to be the first duty of both the National Parks Authority and individual park boards.⁹ Many areas in national parks indeed do have the core wilderness qualities of ‘primaeval character without . . . human habitation’.¹⁰ To many – perhaps most – Pakeha eyes, much of Te Urewera National Park for example appears to be wilderness. But to Te Urewera iwi like Tuhoe and Ngati Ruapani, it is a homeland: ‘our cathedral . . . our sacred shrine, our identity, our body, our mother’.¹¹ For its tangata whenua, wilderness does not exist in Te Urewera. Redolent with ancestors, names and history, it is far from the empty, unpeopled land that the word implies.

The concept of wilderness in national park management, and the tension between Pakeha and tangata whenua perceptions that it highlights, is perhaps epitomised in the category of ‘wilderness area’. In 1977, the Department of Lands and Survey Administration Manual defined the primary criteria for identifying wilderness areas as ‘the primaeval nature of the landscape’ and ‘opportunity for solitude and primitive recreation’.¹² The criteria indicated the extent to which the wilderness concept had become, in New Zealand national park terms, a synthesis of the primeval aesthetic and the recreational experience. Within a few years, the concept had become integral to the *Wilderness Policy* that the Department published in 1985, and to what it termed the ‘wilderness experience’. The policy stated:

7. R Cooper, quoted in Jane Thomson, *Origins of the National Parks Act 1952*, Department of Lands and Survey for the National Parks Authority, Wellington, 1976, p11; and s 39(2)(b) National Parks Act 1952

8. Galvin and Dun report on Urewera County, Department of Lands and Survey and NZFS, 29 April 1935, MA1 19/1/135, bush felling, Urewera Country, NA Wellington

9. Department of Lands and Survey Administration Manual, no 219, May 1977 ‘Responsibilities of National Parks Authority and Park Boards’, ABWN 7613 Acc WSO21 943 ADM1/1/6/H2, NA Auckland

10. Les Molloy, ‘Wilderness Recreation: The New Zealand Experience’, *Wilderness Recreation in New Zealand*, Federated Mountain Clubs of New Zealand, 1983, Wellington, p4

11. Taiarahia Black, unpublished text of presentation to 1995 University of Otago environmental conference

12. Department of Lands and Survey Administration Manual, 1977, ‘Wilderness Areas’, ABWN 7613 Acc WSO21 ADM 1/1/6/H21, NA Auckland, s 4.1(a), (b)

The idea of wilderness is very personal. It embodies remoteness and discovery, challenge, solitude, freedom and romance. It fosters self-reliance and empathy with wild nature. Wilderness is therefore principally a recreational and cultural concept which is compatible with nature conservation.¹³

With the refinement of the wilderness concept in the 1970s came consolidation of the policy principle that people and nature were somehow incompatible. This principle was challenged by the American ecologist Raymond Dasmann, at the South Pacific Conference on National Parks and Reserves held in New Zealand in 1975. Dasmann differentiated between 'biosphere people' whose lives were tied in with the global technological civilisation, and people such as the Tuhoe of Te Urewera who he called 'ecosystem people'. In a book on the subject, he had argued that because ecosystem people were 'totally dependent, or largely so, on the animals and plants of a particular area [they] must learn some reasonable balance . . . It follows that people who have lived for centuries or longer in the same place, without major source of supply from the outside must develop some working relationship with the species surrounding them'.¹⁴

At the conference, Dasmann pursued 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 safeguarded. But, of course, first the ecosystem people must be removed – or at least that has been the prevailing custom.¹⁵

The conference recommended that in managing national parks in the South Pacific, Governments of the region ought to recognise 'the rights of indigenous people to the lands they have traditionally occupied' and that 'people occupying lands surrounding national parks and reserves be involved to the fullest extent possible in their establishment, protection and operation'.¹⁶

The idealised 'natural state'¹⁷ underpinning national park policy has always excluded people from the term 'indigenous'. Historically, Crown officials have commonly equated 'indigenous' with the land's 'primeval' state. When the Crown took Taranaki maunga out of Maori ownership to create Egmont National Park in 1900, the report to Parliament of the

13. Department of Lands and Survey, *Wilderness Policy*, Wellington, 1985

14. The quote about ecosystem people is from Raymond F Dasmann, *Wildlife Biology*, Wiley, New York, 1964

15. Raymond F Dasmann, 'National Parks, Nature Conservation and Future Primitive', *Proceedings of the South Pacific Conference on National Parks and Reserves*, Department of Lands and Survey Wellington, 1975

16. Conference Recommendations, *Proceedings of the South Pacific Conference on National Parks and Reserves*, Department of Lands and Survey Wellington, 1975; also in AAAC Acc W2789 19/2/4 pt15, NA Auckland

17. Section 3(2)(a) of the National Parks Act 1952

Commissioner of Crown Lands described the reservation as returning the mountain 'to its old primaeval grandeur'.¹⁸

New Zealand's national parks are prime examples of the Western national park model. The model is shared by other former colonies of the Western powers such as Australia, the USA and East Africa. In each of these regions, the displacement of the indigenous people from their lands and customary resources was characteristic of the colonisation process. Central to this process in New Zealand was the idea that a national park should be 'a wilderness area set apart for preservation in as near as possible its natural state' in which 'the flora and fauna are interfered with as little as possible'. Crown officials first enunciated this principle in 1944, and it became a primary purpose of New Zealand's first general National Parks Act in 1952.

An integral element of this model, which is widely termed 'the Yellowstone approach' after the world's first ever national park in the western United States, has been the exclusion of the component landscapes' indigenous people. Internationally, the number of national parks has grown enormously since Yellowstone National Park was created in 1872. This has largely been a consequence of the economic benefits national parks bring through tourism. Paralleling that growth has been contentious debate about the propriety of dispossessing indigenous people from their land and resources for the purpose.¹⁹ In other countries where the impress of Western colonialism has been minor, for example Thailand, indigenous people and their customary relationship with the local flora and fauna are often integral components of the national parks, and the tourism they generate. In Western European countries, for example Britain, national parks tend to be inhabited, cultural landscapes in which farming and local communities co-exist with the local flora and fauna – and the tourists that the concept attracts.

This chapter sets out, in overview, the actions of the Crown relating to national parks as they concern the indigenous flora and fauna for the period between 1912 and 1983. It makes particular reference to Maori views and responses concerning the actions of the Crown, where such views and responses have been recorded. The chapter is considerably smaller than the accompanying chapters on scenery preservation and animal protection, because the level of dissonance with Maori was substantially less. The exception, between 1912 and 1983, was Te Urewera National Park, for

18. James MacKenzie, 'Report by Commissioners of Crown Lands on the preservation of native forests (Taranaki)', AJHR, c-13B, 1901, p8

19. This has been particularly the case in African countries. See Kudzai Makombe (Ed), *Sharing the Land: Wildlife, People and Development in Africa*, World Conservation Union and IUCN Regional Office for Southern Africa, 1993, Harare, Zimbabwe; and J S Adams and T McShane, 1992, *The Myth of Wild Africa: Conservation without Illusion*, W W Norton & Co, New York

which considerable Maori land was acquired during this period. Te Urewera has been selected as a focus in this chapter for this reason.

New Zealand's first national parks were established several decades before 1912, the date at which this study commences. But most of the national parks were created between 1912 and 1983, and it was also the period when all the parks were brought under a single statute. An account of the evolution of national park statutes and policy from 1912 is preceded by a brief section setting out the historical context of the national park concept and its legislative developments prior to 1912.

The research for this chapter has focused on the Crown record concerning national parks, specifically parliamentary debates and reports, and the files of the primary Crown agency concerned, the Department of Lands and Survey. It has been assisted by three main secondary sources: David Thom's 1987 book marking the centennial of national parks in New Zealand, *Heritage: The Parks of the People*,²⁰ the National Parks Authority's *National Parks of New Zealand*²¹ and Jane Thomson's 1976 *Origins of the National Parks Act 1952*.²² Primary sources were drawn on in only a minor way, to develop the specific section on Te Urewera National Park. The main source was Leah Campbell's overview report for the Crown Forestry Rental Trust, 'Te Urewera National Park, 1952-75'.²³ Anita Miles' report *Te Urewera*, part of the Waitangi Tribunal's Rangahaua Whanui series²⁴ has also been useful albeit it in a more limited way.

20. David Thom, *Heritage: The Parks of the People*, 1987

21. National Parks Authority, *National Parks of New Zealand*

22. Jane Thomson, *Origins of the National Parks Act 1952*, Department of Lands and Survey for the National Parks Authority, Wellington, 1976

23. S K L Campbell, 'Te Urewera National Park, 1952-75', Urewera Overview Project 4, Crown Forestry Rental Trust, June 1999

24. Anita Miles, *Te Urewera*, Waitangi Tribunal Rangahaua Whanui Series, District 4 (Working Paper), March 1999

25. David Thom, quoted from T R Mann's, 'The Birth and Evolution of the National Park idea', paper presented at the 19th International Seminar of Parks and Protected Areas, Yellowstone, 1986

6.2 THE CONCEPTUAL AND LEGISLATIVE CONTEXTS OF NATIONAL PARKS AT 1912

Te Heuheu Tukino placed the central North Island volcanoes Ruapehu, Ngauruhoe and Tongariro under the mana of Queen Victoria in 1887. This vesting of Maori-owned land in the Crown led to the creation of Tongariro National Park in 1894. New Zealand became one of the first countries to establish a national park. Te Heuheu's gift came just 16 years after the world's first national park, Yellowstone, in the US state of Wyoming, was 'reserved from settlement, occupancy, or sale under the laws of the United States and dedicated and set apart as a public park or pleasure-ground for the benefit and enjoyment of the people'.²⁵

Tongariro National Park was not the result of government officials setting out to acquire the beautiful indigenous landscapes for which it and

other national parks are now renowned. It was the result of battles in the Native Land Court over Maori ownership. Te Heuheu Tukino gifted the mountains to the Crown in order that his iwi's lands would not be divided up and settled as had happened to so much Maori land in the 1880s. The intent of his offer was to ensure that Tuwharetoa's ancestral mountains remained intact – even if this meant they were no longer in direct Tuwharetoa control.²⁶

A condition of Te Heuheu's gift was that he and the paramount chiefs of Tuwharetoa who succeeded him would be permanently on the board of trustees that would control the new national park. While the actual determination of the land as national park did not require the Government to pass an Act, Te Heuheu's condition of a trustee structure to which he and his descendants could be appointed, did. A succession of attempts to do so, beginning with John Ballance's Tongariro National Park Bill in 1887, failed because the Crown could not purchase the additional Maori land to create the park area it wanted. It was not until 1894 that title for all of the land was acquired and the national park was declared by statute.

In Ballance's original Tongariro National Park Bill, the park was to have three trustees: the Governor, the Native Minister, and the paramount chief of Tuwharetoa. In other words, despite the fact that the land was to be in Crown title, the Maori interest was to be well represented. Although Tuwharetoa have retained their representation on the Tongariro National Park Board until the present day, as Te Heuheu Tukino required, this has not set a precedent for other national parks. Until 1961 when the board of Te Urewera National Park first met, Tongariro National Park remained the only national park with Maori representation. Not until the 1980s did iwi representation on regional conservation boards become standard practice in national park management.

Worldwide, the role of indigenous people in national parks is one of the more disputatious issues for the modern national park movement. Many national park systems have incorporated their landscapes' indigenous peoples and enabled them to continue their relationships with customary hunting and gathering practices. The national park systems that have been developed under the Yellowstone model do not. Interestingly, New Zealand, along with Canada, is one of the few countries to have modelled its national parks so closely on the American approach.²⁷ When Te Heuheu Tukino placed his iwi's mountainlands under the mana of Queen Victoria, he protected ancestrally sacred lands from the destructive

26. The historical synopsis of national parks prior to 1912 has been assisted by David Thom and complemented by James Muir's MPhil in History thesis, 'The Changing of the Forest: Ecological Colonialism, Legislation, and the New Zealand Bush 1840–1920', University of Waikato, 1995

27. United States national park historian John Ise, quoted in Jane Thomson, *Origins of the National Parks Act*, Department of Lands and Survey for the National Parks Authority, 1976, Wellington, p5

exploitation and change to which much of New Zealand was being subjected in the 1880s. But for Tuwharetoa, the effect of the Government adopting the Yellowstone model of ‘a public park or pleasure-ground’ reserved from any ‘settlement and occupancy’ was the loss of their customary rights to the indigenous flora and fauna within the park.

A critical 1980s analysis of one national park, Te Urewera, in a study of public lands commissioned by the former Department of Lands and Survey and Forest Service in order to present the concerns of the land’s indigenous people to the Crown, described the concepts on which national parks were based as ‘pakeha notions derived from the Romantic Movement’.²⁸ In other words, the study said, the national park idea was centred around the imported concepts of the immigrant culture, for the benefit of the visitor experience, but in negation of the local landscape’s native culture.

As David Thom, a former Chairman of the National Parks Authority, set out in his centennial history of national parks in New Zealand, the national park idea indeed derives, as does scenery preservation, from ideas of the Romantic movement, particularly in late eighteenth and early nineteenth century England.²⁹ In England itself, one of the premier national parks, Lake District National Park, derives directly from the Romantic poet William Wordsworth’s celebration of the district in his poetry and his advocacy of it in his tourist guides:

persons of pure taste throughout the whole island, who, by their visits (often repeated) to the Lakes in the North of England, testify that they deem the district a sort of national property, in which every man has a right and an interest who has an eye to perceive and a heart to enjoy.³⁰

In making it possible to regard wild nature as aesthetically agreeable, philosophers such as Edmund Burke and Immanuel Kant laid the ground for Wordsworth and other Romantic poets to celebrate it as beautiful and vital. No less, they prepared the Europeans who were moving, with the expansion of Europe’s Empire, into the ‘New World’ spaces of America to have regard not only for the farms and cities of colonisation, but what Daniel Boone termed ‘the beauties of nature’.³¹

The Romantic tradition established a tempering counter-principle to the civilising urge in Europe’s far-flung colonies: because people’s wellbeing decreased in proportion to civilisation, occasional retreat to wilderness could be beneficial. In doing so, it framed the view of wilderness

28. Evelyn Stokes, J Wherehuia Milroy, Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera*, University of Waikato, Hamilton, p34

29. See also section 5.2 of chapter 5.

30. Quoted from Wordsworth’s *Guide to the Lakes...* in an epigram to *The Lake District: A Sort of National Property*, Countryside Commission of the UK and Victoria and Albert Museum, 1986, London

31. Quoted in David Thom, p26

that became part of the spread of European settlement into the American West, and then into the far southern spaces of Australia and New Zealand; and it provided a purposeful vocabulary for describing it. For most people advancing the frontier of settlement and creating civilised space, 'the wilderness' was space to be tamed, inhabited and civilised. For a few it was something to be celebrated – a quality that had comprehensively lost in the struggle with civilisation and needed to be 'preserved' from it.

It was this Romantic misgiving about the ordered qualities of the civilised, and its preference and concern for the wild, that was at the root of the Crown's statement in 1976 that much of Te Urewera National Park's 'present attraction lies in the seemingly impenetrable wilderness of the present Urewera'. 'Preservation of the wilderness character and the protection of the ecology' was determined to be the Crown's 'primary objective of management' for Te Urewera National Park.³² Just as the principle of preserving some areas of the North American 'wilderness' from the spread of civilisation was integral to the idea of Yellowstone National Park, the 'wilderness' ethos has been integral to the national park idea in New Zealand.

This conception of 'the wilderness' is highly cultural and selectively so. In the process of drawing on the desires and values of one culture, it negates the space of the other. Central to this conception, some critics of modernity aver, is the 'legitimizing, as landscape picture, terrain violently seized, dispossessed of its indigenous inhabitants and reconstituted as territory'.³³ The many centuries of ancestral connection to the same landscapes, and their plants and animals, prohibit the indigenous people of Te Urewera from perceiving as 'wilderness' what they understand as homeplaces.

While Tongariro National Park was the first area of land in New Zealand to be called a national park, it was not the first national park gazetted. By 1894, two national parks already existed in law. In 1887, close to 100,000 acres around Mount Cook were set aside as Tasman National Park. Then, in 1891, a further 38,000 acres abutting Tasman National Park, including the Hooker Glacier, were set aside as a second national park.³⁴ In 1900, Egmont National Park was gazetted. Since the 1880s, the land had been mainly a Crown forest reserve.³⁵

New Zealand's first national parks were established in the era of acclimatisation, when the loss of indigenous wildlife was widely seen as inevitable. National parks were the sites of many introductions of animals intended as a future hunting resource. Big game hunting was another theme

32. Department of Lands and Survey, Urewera National Park Management Plan, Urewera National Park Board, Hamilton, 1976. See section 6.4 of this chapter for further development of matters concerning Te Urewera National Park.

33. Jonathon Bordo, 'Picture and Witness at the Site of the Wilderness', *Critical Inquiry*, Winter 2000, vol 29, no 2, pp 224–247

34. David Thom, *Heritage: the Parks of the People*, 1987, and James Muir p160

35. James MacKenzie, 'Report by Commissioners of Crown Lands on the preservation of native forests (Taranaki)', *AJHR* c-13B, 1901

in which, in the early years at least, the New Zealand national park would mirror the Yellowstone model. The 1900 Egmont National Park Act, however, protected everything and forbade the shooting of any animals.

Each of the national parks established in New Zealand before 1912 had different legislative origins. Tongariro and Egmont were created by statute, with their own Acts. They could only be reduced or altered by an Act of Parliament. Other national parks were created by a provision in the Land Act 1885, which gave the Governor the power to reserve any Crown lands from sale. In this way, in the early 1900s, three more areas were given national park status. Lands at Arthur's Pass and Otira Gorge were reserved for national park purposes in 1901, and then, in 1905, a vast area – 2,326,200 acres of southwestern Fiordland – was declared Sounds National Park. In time, most of these early national parks proclaimed under the Land Act were confirmed by Acts of Parliament.

From a historical perspective, the period from 1905 until about 1918 is particularly significant. This is not so much due to the national parks that were created, but because of the Crown's creation of myriad scenic reserves in the wake of the Scenery Preservation Act 1903. Many of these areas formed the protected nuclei of future national parks. For example, the designation of a large scenic reserve in the Routeburn Valley in 1911 provided a nucleus around which Mount Aspiring National Park was later created. The reservation of land around Lakes Rotoiti and Rotoroa in 1912 was the origin of Nelson Lakes National Park. The creation of Whanganui National Park in 1985 would not have been possible without the scenic reserves the Crown had established on Maori land abutting the river, often by using the compulsory acquisition provisions of the Public Works Act 1908. Similarly, the basis for Paparoa National Park, established in 1987, was laid in 1914 with the creation of a series of coastal scenic reserves at Punakaiki.

6.3 A SYNOPSIS OF NATIONAL PARK LEGISLATION AND POLICY, 1912–1983

In 1952, Parliament debated a Bill designed 'to present in a more clear-cut and concise manner a policy for the control and administration of these vast areas of open space which we call our national parks'.³⁶ Prior to this, the legislation on national parks was, in the words of one of the few

³⁶ E.B. Corbett, Minister of Lands, NZPD 1952, vol 297, pp 712–25

historians to have researched the subject, 'to say the least, untidy'.³⁷ Since the first national park was legally designated in the 1880s, five parks had evolved under a variety of Acts. Each national park had different administrative relationships and provided differently for the sporting, conservation and local interests who, along with Crown officials, constituted its board of control.

National park legislation and administration between 1912 and 1983 was an area of Crown actions from which reference to the Treaty of Waitangi was virtually absent. In the Crown record researched for this overview study, the only indication that the Treaty of Waitangi might have some legal bearing on national park matters, or that, because of the Treaty, iwi Maori had rights giving them some degree of authority regarding the indigenous flora and fauna of their rohe, came at the very end of the period. This was in the Department of Maori Affairs' response to the National Parks and Reserves Authority's release of its *General Policy for National Parks* in 1983, by which time a consciousness of Treaty of Waitangi principles was beginning to develop in Government.

This synopsis sets out the chronological development of national park legislation and policy between 1912 and 1983. Its primary purpose is to outline the evolution of the principles by which national parks became a theme of Crown actions concerning the indigenous flora and fauna. It also notes the instances in which these Crown actions made reference to Maori in any way.

From 1912 through to the late 1940s, national parks were a very minor area of Crown legislative activity. They were widely perceived as an expensive luxury that the general public was slow to appreciate and for which funds were hard to obtain; factors which in lean years and periods of war mitigated against politicians taking an interest. The 1952 Act coincided with a period of relative prosperity, when public opinion rendered national parks a matter of national importance, and hence politically advantageous for Parliamentarians to engage with.³⁸

As a barely-considered factor in a matter of low public and political interest, Maori received negligible reference throughout the years between 1912 and 1940. The Tongariro National Park Act 1922 was one of the few exceptions. But its reference to Maori was simply a continuation of the 1887 arrangement which provided for the paramount chief of Tuwharetoa to be a member of the Tongariro National Park Board. Section 5 of the 1922 Act specified that one board member was to be:

37. Jane Thomson, *Origins of the National Parks Act*, Department of Lands and Survey for the National Parks Authority, 1976, Wellington, p3

38. Thomson, p5

The paramount Chief for the time being of the Ngatituwharetoa Tribe of the Native race if that Chief is a lineal descendant of Te Heuheu Tukino, the donor of the Native land included in the area of the Tongariro National Park;

and that:

If the paramount Chief for the time being of the tribe aforesaid is not a lineal descendant of Te Heuheu Tukino, the Governor-General in Council shall appoint as a member of the Board a lineal descendant, who shall hold office in lieu of such a paramount chief.³⁹

In terms of board hierarchy, Maori held an important role in Tongariro National Park's management and the board's decision-making. As a consequence of having its own Act, the board reported annually to Parliament for many years.⁴⁰ However there is not a single instance in these reports of Maori concerns or values being mentioned, nor any evidence of the Tuwharetoa representative influencing the board in any significant fashion. The situation did not change when the board was empowered to make bylaws on exclusion, access and maintaining the ecological condition of the park.⁴¹

The Egmont National Park Act 1924 contained no provisions relating to Maori whatsoever, despite obviously impacting on many matters relating to the Maori relationship with the indigenous flora and fauna. Nor did the Peel Forest Act 1926, which gave legislative protection to an area considered at the time to be equivalent to a national park in scenic landscape quality.

It was at about this time that the colonial urge to acclimatise to New Zealand the kinds of animals that Europeans had traditionally hunted began to be superseded by the pro-indigenous sentiments of the nascent conservation movement. By the 1920s, the grievous ecological impact that many introduced species were having in national parks and elsewhere was beginning to cause national concern. Some national parks had by then been subject to considerable acclimatisation activity. In 1916, when the national parks were under the authority of the Tourist Department, the honorary park warden that the department appointed to Tongariro National Park successfully sought Prime Minister Massey's support to establish grouse shooting by replacing the indigenous tussock grass vegetation with Scottish heather. The grouse shooting never eventuated, but the heather was so

39. Section 5(3) and (4) of the Tongariro National Park Act 1922

40. For example, 'Report of the Tongariro National Park', AJHR, 1923, c-13

41. 'Tongariro National Park Annual Report', AJHR, 1928, c-13; s 4 Tongariro National Park Act 1922 (1927 amendment)

successful that it overwhelmed the indigenous plants of the tussock grasslands to which it was introduced. It now dominates vast areas of the national park and is considered to be a plant that cannot be controlled or eliminated.

In 1926, an aristocratic English fraternity, the Society for the Preservation of the Fauna of the Empire, who had been a singularly influential factor in the creation of East Africa's game reserves, approached the New Zealand Government asking it to consider stocking New Zealand's national parks with certain African and North American animals. The society told the Under-Secretary of Lands that it was of great interest to them:

to learn more about the great National Parks your Government has founded. It would appear that it might add greatly to the attraction of these Parks for the people of New Zealand if they were judiciously stocked with certain animals introduced from other countries and suitable to the climate of each Park. It may be urged that such a policy is unnatural, but as some of the beautiful herbivora found in Africa and elsewhere are not indigenous to New Zealand, it would be a great joy to nature lovers in the Dominion to have the opportunity of seeing them in a wild state. Perhaps this suggestion could be considered by your Government. As regards the African animals: the eland, springbok, and buffalo will stand a considerable amount of frost . . . Some of the North American herbivores would however probably flourish in the foot hills of your Southern Alps.⁴²

This request provided the Government with an opportunity to declare that protecting New Zealand's indigenous flora and fauna was central to the national park concept as it was developing in New Zealand. The Under-Secretary of Lands replied that he was afraid that 'apart altogether from climatic considerations, any action in the direction suggested is not likely to be taken. 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'.⁴³

Tongariro National Park was greatly enlarged in the 1920s, fulfilling the recommendation in the ecologist Leonard Cockayne's 1908 report on the park that it was 'imperative that the boundaries of the park be extended'.⁴⁴ In 1929, land that had been reserved for national park purposes as 'Waimakariri Park' in 1901 was formally established as Arthur's Pass National Park.

42. Society for the Preservation of the Fauna of the Empire, *c/o Zoological Society of London* to J B Thompson Esq, Under-Secretary of Lands and Survey, 1926, re Preservation of Native Fauna, ABWN6095 W5021/213 4/464, Fauna Preservation etc, NA Auckland

43. Under-Secretary of Lands and Survey to Society for the Preservation of the Fauna of the Empire, 1926, Preservation of Native Fauna, ABWN6095 W5021/213 4/464, Fauna Preservation etc, NA Auckland

44. Leonard Cockayne, *Report on a Botanical Survey of the Tongariro National Park*, Department of Lands and Survey, Wellington, 1908

It was at this time that public pressure began growing for the Government to improve the administration of national parks and create the unity of control that was eventually enacted in the National Parks Act 1952. In 1925, the New Zealand Tourist League proposed that a 'National Park Conservation Board' be established 'in order to more effectively co-ordinate the work of a number of Government Departments controlling in different ways various properties, and to enlist more public interest and support'. It was hoped, the league said:

to particularly supplement the good work which has been done for many years by the Scenery Preservation Commissioners in the purchase and reservation of bush and scenic areas. This committee now comprises representatives of the Lands and Survey and Tourism Departments, and it is desired to extend the scope of the committee by including representatives of other Departments which exercise supervision over other classes of reserves, and also representatives of non-official organisations interested in the preservation of our flora, fauna, and other features of our native life and land'.⁴⁵

In 1927 this proposal was reinforced on conservationist grounds as the result of a visit to New Zealand by the Director of England's Royal Botanic Garden at Kew. He was horrified by the ravages of goats in Egmont National Park and the spread of Scottish heather at Tongariro.⁴⁶ In the 1930s, in spite of the unprecedented economic and social problems New Zealand was experiencing, these became pervasive public concerns. Within the Government, there was also concern at the uncoordinated administration of national parks. The experienced former Inspector of Scenic Reserves, E Phillips Turner, called for a bureau to be set up specifically to administer national parks.⁴⁷

In 1934, a national coalition of tramping and mountaineering interests, the Federated Mountain Clubs, began seeking full representation on all the national park boards. The federation also urged the Government to develop systematic, unified control of all national parks. In 1938, the year the Oteha wilderness area was added to Arthur's Pass National Park, the federation stated their policy towards national parks in a letter to the Minister of Lands. The general principles for the control of national parks, they said, should include, besides free access and rights of camping and hut building, that 'Native plant and animal life should as far as possible be

45. 'National Park Conservation Board' written in 1925 by G M Fowlds, Vice-President, New Zealand Tourist League, BAAZ1109/789D, NA Auckland

46. Thom

47. This and other material relating to the evolution of the National Parks Act 1952 is cited from Jane Thomson, p2.

preserved, and introduced plant and animal life should be exterminated'. The same words were to find their way into the 1952 Act.⁴⁸

The federation's lobbying marked the beginning of a long-standing alliance with the Government that was to profoundly influence the evolution of Crown national park policy. This was similar to the way that other interest groups whose concerns had bearings on the indigenous flora and fauna, such as the acclimatisation and scenery preservation societies, had earlier influenced Crown policy. The federation's influence on Crown national park policy, which continued right through to the 1980s, was particularly significant in the wilderness concept becoming a core principle in the management and establishment of national parks in New Zealand.⁴⁹

Minor changes were made to national park legislation between 1927 and 1952, but there were no changes to the overall administration of national parks. In 1928, a piece of consolidating legislation, the Public Reserves, Domains and National Parks Act, was passed. It contained the various provisions of prior legislation relating to the indigenous flora and fauna within these areas, but made no new provisions. The substantial parliamentary debate on the Bill made no reference to Maori concerns. The Maori members of Parliament did not speak to it.⁵⁰ Nor was any reference to Maori made in the annual reports to Parliament on public domains and national parks between 1912 and 1983.⁵¹

The Egmont National Park Amendment Act 1933 recognised the significance that local farmers on the mountain's lower slopes attached to the park's role in water catchment and soil conservation, and specified representation of the West Egmont Local Committee (a committee of settler farmers), on the Egmont National Park Board.⁵² Notwithstanding Taranaki maunga's traditional importance to its iwi, the amendment, like its predecessor Acts of 1900 and 1924, made no reference to Maori representation. In evidence to the Waitangi Tribunal concerning the Taranaki raupatu claim, Mereana Hond stated that in the legislative establishment of Egmont National Park, 'the Maori perception of the Mountain was never considered'. This, Hond said, was 'evidenced first by the lack of consultation with Maori over its change of title and secondly the conspicuous absence of Maori representation in management until 1980 when a position for one Maori was made permanently on the Taranaki Parks and Reserves Board'.⁵³

The Crown has often sought to add adjoining land, considered to be significant in indigenous flora and fauna terms, to its national parks. In the

48. Thomson, p2

49. See, for example, *Wilderness Recreation in New Zealand*, Federated Mountain Clubs of New Zealand, 1983, Wellington, p4

50. NZPD, 1928, vol219, pp575–589

51. For example, AJHR, 1930, C-10, Public Domains and National Parks of New Zealand, Annual Report

52. Section 2(2) of the Egmont National Park Amendment Act 1933

53. 'Ko Taranaki Te Maunga', submission of Mereana Hond, 2 November 1993, Wai 143, doc 1, pp 9–10, 12–13

1940s, two Acts were passed to empower national park boards to lease and purchase land. Section 9(2) of the Land Laws Amendment Act 1944 provided that:

the Governor-General, in the name and on behalf of His Majesty, may treat and agree for the purchase or lease of any land that he deems necessary for the purposes of a national park, or for the improvement or extension of any existing national park, and for any such purposes may enter into any contract that he thinks fit’.

Land within national parks could also be leased to another party, for grazing for example. The Statutes Amendment Act 1943 allowed any national park board, with the consent of the Governor-General, to ‘set apart leasing areas within the park’.⁵⁴

In 1942, Abel Tasman National Park was established. A considerable part of the park came from privately owned land. The creation of this national park was, to a considerable degree, the result of the lobbying by the ornithologist and conservationist Perrine Moncrieff, who donated land to the Crown for the purpose.

Within six years of the Federated Mountain Clubs’ initial lobbying of the Government to effect unitary administration of national parks and to press its conception of national parks as wilderness areas, it had gained a response from Crown officials. Ron Cooper was the Chief Clerk of the Department of Lands and Survey, and one of the most influential officials in national park and reserves administration. In 1944, he addressed Wellington’s Tararua Tramping Club – an affiliate member of the federation. Cooper began by outlining two possible conceptions of national parks: the purely scientific reserve; and the wilderness area to which the general public should have access. Cooper’s clear preference was for:

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. In such an area the recreation and enjoyment of the public is a main purpose, but at the same time the natural scenery, flora and fauna are interfered with as little as possible. Such a reserve should contain scenery of distinctive quality, or some natural features so extraordinary or unique as to be of national interest and importance, and as a rule it should be extensive in area.⁵⁵

54. Section 2 of the Statutes Amendment Act 1943. Section 25(1) of the Act was ‘to be read together with the Public Reserves, Domains and National Parks Act, 1928, and shall be deemed to form part of Part II of that Act’.

55. R Cooper, quoted in Thomson, p11

Eight years later, Cooper's words were echoed in the National Parks Act, both in the Act's statement of purpose and in its provision for 'wilderness areas'.⁵⁶

In 1945 Cooper convened a subcommittee on national parks that had been set up by the Cabinet-established Organisation for National Development. The subcommittee's report proposed a comprehensive overhaul of national parks administration. But it was 1949 before the Government saw national parks reform as either important or possible, and took the first steps towards drafting a comprehensive National Parks Bill.

The relatively uncontroversial and non-partisan quality of the Bill ensured it survived the change of Government in 1949. The Ministers of Lands in the successive Labour and National cabinets favoured reform. Early in 1950, the new Minister, Ernest Corbett, gave approval for copies of the draft Bill to be sent to Government Departments, secretaries of the various national park boards, commissioners of Crown lands and the societies and individuals who had been part of the movement towards national park reform. No record was found of Maori being consulted in this process.

The core principles of the 1952 Bill and in the resultant Act were little changed from the wording of the Federated Mountain Clubs' proposals in 1938. The National Parks Act 1952 defined its purpose as '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'.⁵⁷ Introducing the Bill, Corbett described it as an urgent measure for the indigenous fauna. National parks, he believed, provided the only places where rare native birds could feel truly safe. To that end, the Act provided for 'indigenous flora and fauna to be preserved as much as possible, and for exotic flora and fauna to be exterminated as much as possible within the country's various national parks'.⁵⁸ The Act was absolute in its provisions to that end. Offences under the Act defined in section 54 included:

- liberating any animal or bird, or planting any plant of any kind, in a National park;
- shooting, destroying, taking, injuring, or in any way disturbing any bird or the nest or eggs of any bird in a National park;

56. Sections 3 and 34 of the National Parks Act 1952

57. Section 3 of the National Parks Act 1952

58. Section 3(2)(b) of the National Parks Act 1952

- breaking, cutting, injuring, or removing any, or any part of, any weed, tree, fern, shrub, plant, stone, mineral, or thing of any kind.

The author of *Origins of the National Parks Act, 1952* described the Act as ‘a revealing example of the democratic process of consultation, discussion and compromise among conflicting interests’.⁵⁹ Despite this, the Act continued the tradition of previous national parks legislation by making no reference to Maori. In this regard, the National Parks Act was quite different to the Reserves and Domains, and Wildlife Acts that were enacted in the early 1950s. In his introductory speech on the National Parks Bill, the Minister of Lands specifically acknowledged Te Heuheu Tukino for placing his iwi’s mountains under the mana of the Crown, thereby ‘donating’ New Zealand’s first national park. For that reason, he said, the Bill continued the provision that had been made historically for the paramount chief of Tuwharetoa to be represented on the Tongariro National Park Board. This was the Minister’s only reference to matters Maori. The new Act established a National Parks Authority, for which many had lobbied since the 1920s, and specifically provided for one member of the authority to be appointed on the recommendation of the Forest and Bird Protection Society. Provision for Maori representation was confined to the membership of the Tongariro National Park Board, which had been a condition of Te Heuheu Tukino’s gift of the Tongariro mountains.⁶⁰

Several new national parks were established soon after the National Parks Act was passed. Mount Cook National Park and Fiordland National Park were gazetted in 1953, the latter built on the Sounds National Park that had been established in 1905. Urewera National Park was established the following year, in 1954. Nelson Lakes National Park was established in 1956 and Westland National Park in 1960.

The National Parks Act was amended in many minor ways through the 1960s and 1970s. None of the amendments had any bearing on the indigenous flora and fauna. The National Parks Planning Symposium held by the National Parks Authority in 1970 reiterated the policy principle that ‘the preservation of the native flora and fauna and welfare in general of parks comes first and freedom of entry and access to the public comes second’. As a result, the authority adopted a number of policy changes to make planning more effective in that regard.⁶¹ Nowhere in the entire symposium was there either any voice from Maori, or reference to Maori values. Within a decade, that situation would change dramatically.

59. Thomson, p2

60. Section 16 of the National Parks Act 1952

61. National Parks Authority, ‘New Zealand National Parks Planning Symposium’, Lincoln College, Canterbury, 1970; the quote is from DG Medway of the National Parks Authority, p 17

In February 1975, the year Parliament enacted the Treaty of Waitangi Act, the National Parks Authority hosted the South Pacific Conference on National Parks and Reserves. The presentations to the conference from the delegates of various Pacific countries revealed the extent to which New Zealand, by adopting the Yellowstone model, had evolved a very contrary approach to other Pacific countries with which it had both cultural and ecological affinities. The national park concept in New Zealand had produced law and policy that prohibited human use in any way. This was in stark contrast to other Pacific nations, among who there was a consensus that their indigenous cultures and customary use regimes were integral to the conservation imperative.

The conference made several recommendations in these regards. The first was concerned with the maintenance of local traditions and customs:

Being concerned at the environmental deterioration which has occurred in many areas of the South Pacific region in the train of action to develop natural resources and to provide for the essential needs of larger populations with rising expectations;

Realising that local traditions and customs which intuitively respected environmental imperatives had formerly enabled the peoples of those areas to avoid such deterioration;

Convinced of the need to take urgent action to conserve the skills and traditions of the peoples of the region as part of the cultural heritage;

[This conference] *Urges* the Governments of the region to place greater emphasis on restoring and maintaining traditional methods and customs which formerly enabled communities to live in harmony with nature;

And recommends, further, that appropriate traditional arts, crafts and practices be revived and encouraged and featured as an important element in the planning and operation of national parks and reserves which are situated in areas where such cultural activities are or were practiced.

Recommendation 2 was concerned with national parks and traditional land ownership systems:

Being aware of the importance attaching to the traditional land ownership and tenure systems within many of the countries of the region;

Realising that many of those who own land or rights to land under these systems desire to ensure that their land is protected against destruc-

tive uses so that it may be conserved for use and enjoyment by future generations whilst wishing to retain their land ownership or rights;

Being aware that there are methods for achieving this purpose including the granting of statutory conservation easements, the dedication of land for conservation use, the acceptance of covenants restricting forms of use of the land and the entering into suitable leasing agreements;

[This conference] *Recommends* that the Governments of the region use such methods to provide machinery to enable the indigenous people involved to bring their land under protection as national parks or reserves without relinquishing ownership of the land, or those rights in it which would not be in conflict with the purposes for which the land was reserved.

Recommendation 3 was concerned with the involvement of local people in national parks and reserves:

Recognising the rights of indigenous people to the lands they have traditionally occupied and that any plans for establishing national parks and reserves must be developed in consultation and agreement with the people involved;

Recognising, also, the long prevailing balances that have existed between people and nature in areas where traditional societies have remained isolated;

Believing that such societies should have the right to maintain their isolation for as long as they may wish to do so;

Convinced that arrangements for the establishment of national parks and reserves must take into account the people who occupy surrounding lands so that they may participate in the protection of the national parks and reserves and in any benefits that may stem from them;

This conference] *Urges* the Governments concerned to establish national parks and reserves in which members of isolated indigenous cultures can maintain their isolation for as long as they may wish to do so;

Recommends that people occupying lands surrounding national parks and reserves be involved to the fullest extent possible in their establishment, protection and operation.⁶²

These recommendations are reproduced at length, because they give rare expression to the kinds of principles that might have developed in New Zealand had Maori cultural perspectives been incorporated with

⁶². AAAC Acc W2789 19/2/4 pt 15, Admin of National Parks, NA Auckland

European ones while national parks and reserves policy developed between 1912 and 1983. It is also significant that these recommendations were formulated in a Pacific region meeting in New Zealand, and in which New Zealand Government officials participated.

After the enactment of the Treaty of Waitangi Act, such issues began to emerge in New Zealand to an extent not seen since the early 1900s, when the Crown had begun legislating to preserve the indigenous flora and fauna. In Parliament in 1976, the politician responsible for the Treaty of Waitangi Act, the member for Northern Maori, Matiu Rata, asked the Minister of Lands what steps he proposed 'to take to restore the ownership of the land now embracing the Egmont National Park to the Maori people of Taranaki?' The Minister, Venn Young, replied that he proposed to take 'no steps to change the status of Egmont National Park'. He explained that:

the suggestion that the land be returned to Maori ownership was made by the questioner when a Minister in the Labour Government. The understanding was that the land would become Maori land but immediately revested in the National Park Board. The proposal aroused considerable criticism in Taranaki when it was made. I believe that there is little to be gained from a change in status of land which is conditional on the immediate revesting of control in the present administrative body.⁶³

The Treaty of Waitangi Act and the implications it had for Crown policy and actions appear to have had no bearing on the restructuring of the National Parks Act that occurred in 1980. The National Parks Act 1980 was the result of a recommendation by a special caucus committee in 1979 that national parks legislation be brought in line with the Reserves Act 1977. The aim was to integrate the administration of national parks and reserves.⁶⁴ Reviewing the changes in its report to Parliament the following year, the Department of Lands and Survey outlined what had been proposed. It stated how the proposed new National Parks Act would provide for:

the abolition of the National Parks Authority and the system of separate boards for each national park and many reserve areas. In their place will be a national parks and reserves authority and at district level, national parks and reserves boards . . . The main functions of the new bodies will be directed to policy proposals for new parks and additions, management plans, and issues affecting national parks and reserves of national

63. NZPD, 1976, vol407, p3377

64. Department of Lands and Survey Annual Report, 'National Parks and Reserves', AJHR, 1981, C-1

or international importance. The Minister has announced that he will be delegating to the new authority and boards responsibilities under the Reserves Act 1977 for national, nature and scientific reserves and scenic reserves of national importance. One of the first duties of the new authority will be to establish criteria for categorising scenic reserves as being of national, regional or local significance. While the authority and boards will have oversight of these nationally significant areas, reserves of regional or local significance will be offered to regional and local authorities for control and management. The day to day management of the nationally important areas will be the responsibility of the department.⁶⁵

The general principles of purpose, that national parks were about maintaining environments ‘in their natural state’ and preserving native plants and animals in the national interest, were unchanged from the 1952 legislation. Part I of the new Act extended the provisions prohibiting the disturbing or taking of animals in national parks to ‘any animal that is indigenous to New Zealand and found within a national park’.⁶⁶ The Act also the creation of new national parks and the extension of existing ones by making provision for future investigations in this regard.⁶⁷ Furthermore, it provided for specially protected areas and limitations on access to them, and for amenities areas and wilderness areas.⁶⁸

Part III of the Act reiterated Tuwharetoa’s historic membership of the Tongariro National Park Board. It also included the provision that the Egmont National Park Board include one person ‘to be appointed by the Minister on the recommendation of the Taranaki Maori Trust Board’.

One result the 1980 Act was the 1983 *General Policy on National Parks*. This reiterated the principle that national parks were to provide for the preservation of the indigenous flora and fauna and their environments, and allow public access to them.⁶⁹ Although it made minimal reference to Maori, the *General Policy* was a departure from the historic practice in national park law and policy of making no reference at all. Not one of the major, earlier national park policy documents researched for this present study referred in any way at all to Maori or the Treaty of Waitangi.⁷⁰

Under Section 5 of the 1980 Act, the taking of indigenous plants and animals was prohibited ‘without the prior written consent of the Minister’. The purposes for which plants and animals might be taken were not specified in the legislation. Any such uses approved by the Minister had to be in

65. Ibid

66. Section 5(2) of the National Parks Act 1980

67. Sections 7, 8, 9 of the National Parks Act 1980

68. Sections 12, 13, 14 of the National Parks Act 1980

69. National Parks and Reserves Authority, *General Policy for National Parks*, Department of Lands and Survey, Wellington, 1983, p 6

70. Previous policy documents included the 1966 Report of Working Party on National Park Administration in New Zealand; the 1970 New Zealand National Park Planning Symposium; the 1976 Seminar on Science in National Parks; the 1979 National Parks of New Zealand (Silver Jubilee Conference of the National Parks Authority); and the 1982 Partnership Guidelines (National Parks and Reserves Board Chairmen and Commissioners of Crown Lands).

accordance with the management plan for the particular park. The general policy drew a distinction in this regard between national parks and other kinds of conservation lands. Because national parks were large geographic areas, they could be managed as ecosystems and with greater regard to their natural processes than was generally possible in the smaller scenic reserves. The fundamental priorities in national parks, the general policy said, were the protection of natural resources and maintaining ecological integrity:

Emphasis will be placed on researching and understanding natural processes and minimising interference with these processes. Protection will be offered in ways appropriate for the type, significance and sensitivity of resources . . . In contemplating any use or development of national park lands there is a primary responsibility to ensure natural values are not unnecessarily compromised and to minimise disturbance of the natural environment and ecosystems.⁷¹

The *General Policy* provided for the ‘collection of specimens of indigenous plants and animals and soil, geological and other specimens . . . for approved scientific research and educational purposes.’ Conditions might be imposed, and the collection of rare, vulnerable or endangered species was subject to the proviso that ‘independent scientific advice will be sought’.⁷² The policy also provided specifically for Maori customary use:

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 plants or animals are not protected under other legislation and demands are not excessive.⁷³

Section 4(2)(b) of the National Parks Act 1980 sought to keep waters in national parks as free as possible from introduced species. The general policy noted that exotic fish, notably salmonids, were introduced to park waters before national parks were established. It allowed that ‘native fish may be reintroduced into park waters if there is sufficient ecological justification’. A separate policy made allowance for customary fishing, although it did not state that this was specifically for Maori:

Where land is taken into a park and where there is an established tradition of fishing for eels and whitebait, such use may be authorised where

71. Ibid, p20

72. Policies 8.6 and 8.7, p20

73. Ibid, p21

there is provision in the management plan and where the resource is sustainable.⁷⁴

Neither the National Parks Act 1980 nor the 1983 *General Policy* made specific reference to the Treaty of Waitangi. However, the general policy did encourage the particular involvement of tangata whenua in proposals for, and the management of, national parks:

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.⁷⁵

It has not been possible to determine whether Maori groups or the Department of Maori Affairs were consulted in preparing the *General Policy*. Certainly, the Secretary for Maori Affairs was able to comment, the following year, on the draft of the parallel 'General Policies for Reserves'. The secretary suggested to the National Parks and Reserves Authority that the matter was a Treaty one. His primary concern was the policy that the Crown should acquire Maori land for the improvement of reserves. It was, he said:

clearly Government policy to retain Maori land in Maori ownership, and I suspect that it would be only in exceptional circumstances that purchase of Maori land by the Crown is the best solution. When Maori land is vital for the establishment or maintenance of a reserve, surely the Maori land could be included on a leasehold basis, or under some sort of covenant.

Where Maori land was included in a reserve, the secretary hoped that 'the Maori people have some role to play in management. The policy statement seems to suggest that most of the reserves will be administered by local government – on which the Maori people are often not well represented'.

The draft reserves policy, like the 1983 national parks policy, allowed for the prospect of customary Maori birding where the land had been in prior Maori title. The Secretary for Maori Affairs wanted the principle reworded so that 'all commitments about the taking or killing of birds in

74. Policy 11.5, p22

75. Ibid, p8

scenic reserves which immediately before reservation were Maori land, be honoured'. Given that 'a good proportion of the privately owned land in New Zealand which would be suitable for reserves is now in Maori ownership', it would be desirable, he concluded, 'for all those associated with reserve policies to be aware of the principles enunciated in the Treaty of Waitangi'.⁷⁶

6.4 CROWN ACTIONS FOR NATIONAL PARKS CONCERNING MAORI WHENUA BETWEEN 1912 AND 1983: TE UREWERA NATIONAL PARK

The Urewera will ultimately constitute a great national playing area for at least the North Island, as well as a great sanctuary for the native avifauna and flora of New Zealand . . .

Conservator of Forests, Rotorua, 1935⁷⁷

As the preservation of the Urewera is in European interests desired to an extent which must impose certain restrictions on the Maoris use of their own bush, they are obviously entitled to something in return . . .

Crown report on Urewera County, 1935⁷⁸

Compared to scenery preservation, where the Crown took specific areas of often auspicious, resource-rich Maori land, or to animal protection where the Crown outlawed customary Maori resource rights, Crown actions concerning national parks have drawn relatively little Maori opposition. This is no doubt because most national parks are in upland, mountainous and southern regions, with which the customary Maori relationship has been relatively minor. Te Urewera National Park is the exception to this.⁷⁹

It could not be argued that national park policy and legislation was used by the Crown as a general mechanism to secure Crown ownership and control of Maori lands and their constituent indigenous flora and fauna. Nor did national park policy and legislation function to extinguish Maori customary rights over such land. Only one national park, Te Urewera, was established from Maori-owned land.⁸⁰ This section looks specifically at the Crown's actions between 1912 and 1983, when Maori-owned lands in Te Urewera were determined to be of significance

76. T M Reedy, Secretary for Maori Affairs to the Secretary, New Zealand National Parks Authority, 26 September 1984, ABJZ 869 W4644 19/15/3, p3, NA Auckland

77. Regarding the survey from which the idea of an Urewera National Park was first initiated. Conservator of Forests, Rotorua, to Director of Forestry, 8 May 1935, file 8/2/5 Urewera County, vol 3, 1923–1937, NA Wellington

78. Galvin and Dun report on Urewera County, Department of Lands and Survey and NZFS, 29 April 1935, MA 1 19/1/135, Bush felling, Urewera County, NA Wellington

79. This section should be read in association with section 4.1 of chapter 7, 'Kereru, the New Zealand Pigeon', for the reason that a significant proportion of the Crown actions reported there concern Te Urewera. The term 'whenua', in the heading to this section, is used in the sense of 'the nourishing matrix for a hapu harvesting the resources of its ancestral territory' (Wendy Pond, 'The Land as Tradeable Commodity', review of Alan Ward's 'National Overview' report for the Waitangi Tribunal in *New Zealand Books*, December 1997) as inclusive of the indigenous flora and fauna and the customary relationships with them. It is considered to be a more appropriate word than 'land'.

80. Whanganui National Park was established after 1983, and so falls outside the scope of this report. It was built substantially from pre-existing scenic reserves, many of which have been the subject of Maori grievance, a matter reported on in the Waitangi Tribunal's *The Whanganui River Report*, 1999.

for scenery preservation and eventually of national park quality. It also discusses aspects of the operation of Te Urewera National Park.

When Te Urewera National Park was eventually gazetted in 1954, it was the culmination of a long succession of attempts by the Crown to control Maori resource rights to the Maori-owned indigenous forest lands from which it was formed. These have been the subject of a recent report, 'Te Urewera National Park 1952–75', by Leah Campbell, commissioned by the Crown Forestry Rental Trust. Campbell's report, itself part of a wider study, established a history of the Crown's actions leading up to the park's establishment, and its subsequent operation, and provided a base and guidance for more in-depth research. The purpose of this section is to use Campbell's and other historical studies of Te Urewera, complemented by the limited archival research undertaken for this project, to identify the specific Crown actions that led to Maori grievances with regard to the indigenous flora and fauna.

Among the national parks, Te Urewera stands out as a site of Maori grievance. It is a grievance that continues to the present day, and which has been expressed in terms of customary rights to the indigenous flora and fauna. All of the Maori petitions to Parliament in this period concerning land that had become national park, and the indigenous flora and fauna upon it, have been with respect to Te Urewera.

It is beyond the scope of this overview to provide a detailed historical narrative of Crown actions concerning Te Urewera National Park and Maori responses to them. That narrative remains to be told. There is no doubt that the establishment of Te Urewera National Park was a process by which the Crown divested Te Urewera iwi of large amounts of land, and extinguished their rights to the flora and fauna on that land. However, other Crown actions since 1912 have also had a bearing on Te Urewera Maori-owned lands and their indigenous flora and fauna, notably indigenous forestry, catchment protection and hydroelectric power generation at Lake Waikaremoana. This overview suggests that the Crown imperative of scenery preservation, from which the national park in Te Urewera emerged, led to the Crown actively acquiring Maori-owned land specifically for that purpose. But to fully understand these actions, the national park imperative of the Department of Lands and Survey needs to be researched in parallel with the indigenous forestry operations of the Forest Service, not least because in some areas, the two agencies' interests were parallel.

Recent events such as the re-occupation of the Waikaremoana lakeshore and the removal from Te Urewera National Park's headquarters and visitor centre of the specially commissioned *Urewera Mural* by Colin McCahon – which depicts Te Urewera as appropriated Tuhoe whenua – have drawn attention to these grievances. Mainstream New Zealand has come to associate Te Urewera with a deep, historic dissonance between iwi Maori and the Crown. In other national parks, only the conflict surrounding Whanganui National Park can begin to compare. In acknowledging the great national conservation value of Te Urewera National Park, many Pakeha consider the tangata whenua to have been removed specifically for that purpose. The cultural historian Mark Williams, recently described Te Urewera National Park as a 'legacy of Maoriland', by which he meant a late colonial landscape of picturesque, romantic native beauty. In this sense, the park is 'a conservation ideal which strips agency from Tuhoe, turns them into ecological markers, and makes their preserved world marketable'.⁸¹

The Crown did not proclaim Te Urewera National Park until 1954. But the notion that it contained what the National Parks Act termed 'scenery of such distinctive quality or natural features so beautiful . . . that their preservation is in the national interest'⁸² went back to the beginning of the European encounter with Te Urewera. Pursuing Te Kooti Arikirangi Te Turuki through the country of his Tuhoe allies in 1869, Colonel John St John had more than a military eye on the place:

The scenery of the Urewera is grand and wild, and a tourist . . . could have been delighted with the excursion I took under circumstances not unfavourable to a search after the picturesque.⁸³

Little more than a decade later, Government tourist guides were describing Te Urewera as 'a picturesque region'⁸⁴ and politicians were considering the need to preserve it as such. The member of Parliament for Clutha, Thomas Mackenzie, saw the need to 'reserve' such country against the 'exterminating depredations' of agricultural settlement on the indigenous flora and fauna. 'The preservation of the scenery is a most important thing', he asserted during debates on the Urewera District Native Reserve Act in 1896:

The clearing of our forests, and bushfires, will very soon exterminate some of the choicest of our native plants; and here we have an

81. Mark Williams, 'Travels in Maoriland, 1907–1999' in 'Millennium Supplement', *New Zealand Books* Vol 1 No 5, December 1999, pp 2–3

82. Section 3 of the National Parks Act 1952

83. J H St John, *Pakeha Rambles through Maori Lands*, Burrett, Wellington, 1873, Capper Press reprint, 1984

84. Elsdon Best, *Waikaremoana The Sea of Rippling Waters: The Lake, The Land, The Legends, with a Tramp through Tuhoe Land*, Government Printer, Wellington, 1897, p16

opportunity of preserving in the Urewera Country the remnant of, and perhaps some of the finest specimens of our flora and fauna . . .⁸⁵

Tuhoe also suggested something of the kind during the 1890s – for themselves:

the whole of Tuhoe land, with its mountains and forests, should be set aside as a reserve for the Native people, where the Natives could develop themselves, and where the native birds, which had been driven out of other parts owing to the advance of civilisation, could be preserved.⁸⁶

The Urewera District Native Reserve Act 1896 was seen by many as just that: a conservation measure for Tuhoe, recognising their dependence on their forests and protecting both from the process of settlement. In parallel, an amendment to the Animals Protection Act in 1895 introduced a closed season for kereru. The provision for certain ‘Native districts’ to be exempted from the operation of the Act was specifically directed at the Urewera County. This has been interpreted as more a measure to appease Tuhoe, with whom the Liberal Government was negotiating regarding the Urewera District Native Reserve, than a recognition by the Crown, and assent to, the special Maori relationship with kereru.⁸⁷

William Pember Reeves considered the creation of the Urewera District Native Reserve an important and timely action:

The colonists are . . . awakening to the truth that mere Vandalism is as stupid as it is brutal. Societies are being established for the preservation of scenery. The Government has undertaken to protect the more famous spots. Two years ago too, the wild and virgin mountains of the Urewera tribe were by Act of Parliament made inalienable, so that so long as the tribe lasts, their ferns, their birds and their trees shall not vanish from the earth.⁸⁸

In 1897, under the authority of the Minister of Lands, the Crown published a scenic guidebook to parts of Te Urewera: *Waikaremoana – The Sea of Rippling Waters: The Lake, The Land, The Legends, with a Tramp through Tuhoe Land*. The author was the ethnologist, Elsdon Best, who was in the district in association with the Government’s construction of a road from Rotorua to Waikaremoana, by arrangement with the Surveyor-General, S Percy Smith. Smith, a major advocate of scenery preservation, and soon to become Chairman of the Scenery Preservation

85. NZPD, vol 96, 1896, p171; cited in S K L Campbell, ‘Te Urewera National Park 1952–75’, Urewera Overview Project Four, Crown Forestry Rental Trust, Wellington, 1999, p7

86. *New Zealand Times*, 9 September 1895; cited in J A Williams *Politics of the New Zealand Maori*, 1969, and quoted in Campbell, p12

87. Evaan Aramakutu, *Colonist and Colonials: Animals Protection Legislation in New Zealand from 1861–1910*, Masters of Arts in History thesis, Massey University, 1997. Wai 262 ROI, doc D1, p103–104

88. William Pember Reeves, *The Long White Cloud: Ao Tea Roa*, Horace Marshall, London, 1898, p32

Commission, wrote an introduction to the guide describing Waikaremoana as the second most beautiful lake in New Zealand after Manapouri. A painting by Smith of a picturesque Waikaremoana scene was included as an illustration. The guidebook's purpose was to attract tourists to Te Urewera, and put the region on the tourist route. The region was soon being mentioned in other Government tourist guides such as *Guide to New Zealand: The Scenic Paradise of the World*. It described the Urewera country as:

interesting because of its remarkably fine scenery, but more particularly because of its inhabitants – about a thousand natives of the Urewera and Tuhoe tribe. These people, whose villages are scattered here and there along the more fertile patches in the bush-girt valleys, were the last in New Zealand to submit to the Pakeha and his works.⁸⁹

Best's guide did more than describe how Waikaremoana's 'many little wooded islets, sandy beaches, and small bays, with forest-covered points extending out into the lake' formed 'most delightful and charming scenes'. It also recounted what Tuhoe kaumatua had told him about customary fishing and birding sites around the lake, including the sites of villages where now-vanished titi, or muttonbirds, were cooked.⁹⁰

Perhaps the first explicit reference to the Crown creating a 'national park' in Te Urewera came in 1909, when Apirana Ngata observed during debate on the Urewera District Native Reserve Amendment Act that 'the large tract of country between Lake Waikaremoana and Ruatahuna Valley' would suit 'a national park similar to the Tongariro Park'. Ngata had 'no doubt that if the Ureweras were properly approached they would consent to reservation . . . that would reserve for All time that interesting portion of country leading over the Huiarau Range'.⁹¹

The Crown's quest to possess Te Urewera's picturesque qualities began in earnest soon after 1912, with actions to extinguish native title to Lake Waikaremoana. From 1909 the Government had operated tourist accommodation at Waikaremoana.⁹² From the late nineteenth century, when Waikaremoana became a popular destination for tourists, the Crown acted as if it were the legal owner of the lake; this was consistent with its assumption that it had the right to all waterways.⁹³ Despite the fact that much of the Urewera District Native Reserve abutted Waikaremoana, the Crown excluded the lake from the reserve. In 1913, Hurae Puketapu and 84

89. *Guide to New Zealand: The Scenic Paradise of the World*, Department of Tourist and Health Resorts, Wellington, 1903

90. Best, pp 17, 19

91. NZPD, 1909, vol148, p1388; cited in Campbell, p12

92. Crown actions and Maori responses regarding Waikaremoana have been detailed for the Waitangi Tribunal as a case study in Ben White, *Inland Waterways: Lakes Rangahaua Whanui Series*, 1998 and are not separately set out here.

93. White, introduction

others petitioned Parliament, requesting that an inquiry be made into the boundary of Waikaremoana.⁹⁴

The Crown saw Waikaremoana as picturesque native scenery which it should control for the nation, and this drove the momentum for Te Urewera to become a national park. A formal proposal for areas of Te Urewera to be designated as a Crown reserve to protect the area's indigenous flora and fauna was made in 1913, when the Department of Lands and Survey proposed Waikaremoana and its surrounds be made a scenic reserve. The Hawke's Bay and Auckland scenery preservation societies endorsed the proposal, but scenery preservation was not yet on the Crown's agenda for Te Urewera.

The legal contest for ownership of Waikaremoana that was set in train by the 1913 Maori petition to Parliament lasted for decades. It was not until 1971 that the Native Land Court's 1918 decision that the lake bed was native customary land was eventually settled. That year, legislation was passed to enable the Crown to lease the lake bed from its three iwi: Tuhoe, Ngati Ruapani and Ngati Kahungunu. This followed an appeal by the Crown, which was dismissed in 1944 by the Native Appellate Court, and cross-claims by other Tuhoe and Ruapani hapu in 1946. The immediate tension the Waikaremoana issue caused between Te Urewera iwi and the Crown was evidenced in a 1915 Department of Lands and Survey investigation into Te Urewera's land and timber potential. This investigation stemmed from the appointment that year of W H Bowler to the Land Purchase Office, to recommence purchasing on the Crown's behalf in the Urewera.⁹⁵ The Waikaremoana block was one of several the investigation described as 'not fit to deal with as a class of land for settlement'. It recommended:

that the Crown should offer to acquire the whole 73,667 acres and convert it into a climatic and timber reserve with the view of preserving the beauty of the Lake, and conserving the timber which will be of great value some day. At present the natives are wantonly destroying bush around the edge of the Lake for no apparent purpose, except it is with a view to demonstrating their ownership.⁹⁶

The Crown's acquisition of lands in this period, including the Urewera Consolidation Scheme, has been comprehensively reviewed elsewhere.⁹⁷ Only some of these acquisitions concern land now in Te Urewera National

94. This petition and the others that followed it are summarised in section 6.5 of this chapter.

95. Campbell, p 13

96. Wilson and Jordan survey report, Department of Lands and Survey, August 1915; cited in Campbell, p 14.⁹⁷

97. S K L Campbell, 'Urewera Overview Project: Land Alienation, Consolidation and Development in the Urewera, 1912–1950', report commissioned by the Crown Forestry Rental Trust, July 1997; Anita Miles, *Te Urewera*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), March 1999, chs 9, 10.⁹⁸

Park, but the extent to which they were originally acquired by the Crown for scenery and conservation purposes is by no means clear.

Despite never having purchased any prior interests in the Waikaremoana block, the Crown was able to acquire the whole block under section 5(3) of the Urewera Lands Act 1921–22. This provision enabled Crown officials to include in the acquisition ‘such portion . . . as they deem fit . . . although no instrument of alienation to the Crown may have been executed by the Natives affected or interested’.⁹⁸ The Crown officials who facilitated the acquisitions ignored the opposition of some Maori owners, who repeatedly said that they wished to withdraw their lands from the Crown’s scheme to consolidate Urewera lands.⁹⁹

The Urewera Lands Act 1921–22 included some unusual land purchasing provisions. This reflected, perhaps, the fact that some 907 owners (789 Tuhoe and Ngati Ruapani and 118 Ngati Kahungunu) had been included in the title of the Waikaremoana block which the Crown was so determined to acquire.¹⁰⁰ An award in the Act vested the block in His Majesty the King. The result was that instead of the transfer of title to the block being effected through the signatures of its recognised Maori owners being affixed to the deed of alienation, it was effected through the signature of Crown officials. The acquisition included Whareama and Ngaputahi, two Maori reserves at the southern end of Waikaremoana. Elsdon Best described Whareama in his 1897 guidebook as ‘a famous *whenua pua* – that is to say, a land rich in the peculiar berries, and so forth, which the kaka, koko (or tui) and kereru (pigeon) feed upon. We are here informed by the Kaumatua that his tribe have a reserve at this place’.¹⁰¹

Vincent O’Malley has concluded that the prospect of hydroelectricity generation, rather than securing a scenic tourism resource, was the driving force behind the Crown’s determination to acquire the huge Waikaremoana block.¹⁰² Similarly, the Crown’s desire to control logging and mitigate against erosion in the high-rainfall Urewera country may have been historically more significant than its efforts to preserve scenery and create a national park. The Crown’s recognition that Maori land in Te Urewera contained natural scenery of national value can be traced back to the 1890s. But the idea of acquiring Te Urewera iwi’s indigenous forest resource for a national park was not seriously discussed in Government circles until the 1930s. Underlying that discussion was the risk to the productive Bay of Plenty lowlands from the logging and clearing of Te Urewera forests. A national park came to be perceived, and later widely

98. Urewera Lands Act 1921–22, *Statutes of New Zealand 1921/22*, p450

99. Campbell, p16

100. Ownership of the title to the Waikaremoana block had been determined by the second Urewera Native Lands Commission in 1907; cited in Campbell, p16

101. Best, p17. The kaumatua was Tutakangahau of Tamakaimoana.

102. Vincent O’Malley, ‘The Crown’s Acquisition of the Waikaremoana Block, 1921–25’, report for the Panekiri Tribal Trust Board, May 1996, p66; cited in Campbell, pp 16–17

accepted, as a means by which the Crown could exert the necessary control to avert such a hazard. In 1952, the Minister of Lands, State Forests, and Maori Affairs, Ernest Corbett, stated in Parliament that:

It would create a very dangerous situation from the point of view of erosion if the land were denuded of these forests . . . The necessity for water conservation demands the protection of these forests as a national park.¹⁰³

That control was achieved first by direct Crown purchase, and secondly – when the Maori owners of the forest resource refused to sell – by legislating to prevent logging the forests the Crown wanted eventually to acquire.¹⁰⁴

The key Crown actions through this period can be identified as follows:

- ▶ First, Crown forestry officials propounded in the early 1920s that the Maori-owned Te Urewera lands still in indigenous forest were unsuitable for the settlement schemes proposed by the Departments of Lands and Survey and Agriculture, and were ‘more fitted to be retained as a protective forest’.¹⁰⁵
- ▶ Secondly, section 65 of the Forests Act 1949 prevented Maori owners from realising on their timber assets either directly, by milling the timber themselves, or indirectly by selling cutting rights to private parties. The provision was specifically influenced by the Crown’s concern at its lack of control in Te Urewera. The Act effectively paved the way for the national park to be established five years later.¹⁰⁶
- ▶ Thirdly, the resolution of Crown control with respect to national park and scenic values, state forestry and Tuhoe authority over their forest lands. A significant factor was the appointment of Corbett to the joint portfolios of State Forests, Lands, and Maori Affairs in 1949. Corbett was particularly keen to see a national park in Te Urewera. He knew it would depend on Tuhoe-owned forests for much of its land base. He hoped that by declaring the Crown lands in Te Urewera a national park there would be ‘less difficulty in acquiring Maori land and incorporating it in the Crown area’.¹⁰⁷ Corbett’s public concern for proper consultation with Tuhoe as owners, his awareness that they did not wish to part with their lands, and his policy of not forcing them to do so, are considered to have been significant in Te Urewera National Park being as extensive as it was when it was gazetted in 1954.¹⁰⁸

103. E C Corbett, NZPD, 1952, vol297, pp768, 771; cited in Campbell, p48¹⁰⁴

104. Much of this involves indigenous forestry policies more than national parks, and needs to be separately researched for the purposes of the indigenous flora and fauna claim. Some key events in the process are, however, noted below.

105. Conservator of Forests, 28 July 1921, Urewera Country, State Forests (General) Rotorua Region, file 7/2/-, BAHT 1466/445a, NA Auckland

106. Campbell, p160

107. Quoted in Campbell, p163

108. Campbell, pp162–163

Some aspects of these actions merit highlighting here. Surveys of Te Urewera lands in the 1930s had a significant influence on the Crown's perception that it should exert controls over Maori-owned lands and their indigenous resources, and specifically that some land should be reserved for scenery preservation purposes. Also important was Corbett's concern, as Minister of Lands, State Forests and Maori Affairs from 1949 to 1953, that the Crown properly consult with Tuhoe landowners in effecting the acquisition of lands for national park purposes.

The Crown's perception of Te Urewera as land in Maori ownership that needed to be reserved under Crown control in the national interest, developed from field surveys undertaken by officials in the 1920s and 1930s. In 1934, the Department of Lands and Survey planned a field survey of the Crown lands within the Urewera Native Reserve that had been established by statute in 1896. The Under-Secretary for Lands instructed the Commissioner of Crown Lands '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'. The instruction included ensuring that the department's future surveys in the Urewera country gave 'every attention . . . to ensure that the areas which should be permanently reserved for water conservation, climatic and scenic purposes are properly defined and gazetted'.¹⁰⁹ It was not possible, the Under-Secretary said, to conduct a detailed exploration and survey of the entire reserve, but he was prepared to 'make an inspection of a general nature in order, among other things, to determine the areas where milling could be done'. The 'other things' included commentary on the inspectors' perception of Te Urewera's scenic values and of Tuhoe's relationship with their whenua.¹¹⁰

The survey was a joint undertaking by the Department of Lands and Survey and the State Forest Service. Field Inspector Galvin and Forest Ranger Dun's report on the survey specifically identified the 'Scenic Value of the Urewera' and the region's birdlife. Regarding scenic values, their report stated:

From this aspect, the Urewera is Unique. For 50 miles from Te Whaiti, thorough continuous forest, an extremely tortuous road leads over range after range to Lake Waikaremoana, completely surrounded by steep and densely bushclad hills. It is obviously imperative to preserve all bush adjacent to the road for scenic purposes. This should not present much difficulty. Certainly a considerable length of the road passes through Native

109. Under-Secretary of Lands to Commissioner of Crown Lands, Auckland, 14/3/1934, F1 8/2/5, Urewera Country, vol 3 1923–1937, BAHT 1466/445a, Urewera Country, NA Auckland; cited in Campbell, p23

110. Ibid

owned land; but both timber and land on this portion particularly East of Ruatahuna, is useless for any purpose than scenic and water conservation. Moreover, we are of the opinion that by the exercise of tact and consideration on the part of the Europeans, the Maoris will readily cooperate in all efforts to preserve scenery.

On birdlife, their report stated:

there are over 30 varieties of indigenous birds still extant in the Urewera. We cannot too strongly emphasise the imperative necessity of protecting these little feathered inhabitants of early New Zealand; and the provision of the most vigorous penalties. As it is the last great natural stronghold of the Maoris and their traditions, the Urewera is also the greatest for their wanton destruction. Their early extinction would, of course, be ensured by any serious encroachment of the bush. It is recognised that the Natives have been forced by necessity to shoot pigeons regularly. Such an excuse, however, is not acceptable from the many white people guilty of the offence. On them the heaviest penalty should be imposed whenever caught. More offensive still, is the practice of shooting of pigeons for sale; and in our opinion this should be met by imprisonment without option of a fine.¹¹¹

Galvin and Dun concluded that the Crown's primary imperative should be to keep Te Urewera lands in forest. 'If the Urewera ranges were divested of bush', they stated, 'the plains would be parched in the summer and subjected to devastating floods in the winter'. The key to preventing this scenario was effecting Crown control of the Maori rights to these forests. Galvin and Dun considered that 'by the exercise of tact and consideration on the part of the Europeans, the Maoris will readily cooperate in all efforts to preserve scenery'. They added:

As the preservation of the Urewera is in European interests desired to an extent which must impose certain restrictions on the Maoris use of their own bush, they are obviously entitled to something in return'.¹¹²

Galvin and Dun reported that, economically, the people they encountered in Te Urewera during their survey were far from prosperous. 'Practically entirely Native, and chiefly of local origin', the Tuhoe were people for whom:

111. Galvin and Dun report on 'the Urewera Forest' to Commissioner of Crown Lands, Auckland and the Conservator of Forests, Rotorua, MA 1 19/1/135, Bush felling, Urewera County, BAHT 1466/498b, NA Auckland; cited in Campbell, pp23-39

112. Ibid

unemployment relief and Native Land Development Schemes have considerably relieved a very acute situation. At Ruatahuna particularly, but for the Settlement Scheme in progress, the local Natives would have either been destitute or starved out . . . The position at Maungapohatu, however, is most depressing'.¹¹³

It was this description, it would seem, that created the perception among Crown land and forestry officials of the time that Tuhoe were an impoverished people living in a barely inhabitable landscape.

The Galvin and Dun report became influential in shaping Crown policies towards Te Urewera out of which Urewera National Park would eventually emerge. In this light, the national park can be seen as a mechanism by which the Crown secured control of Tuhoe whenua.

On receipt of the report, one of the Crown officials under whose auspices the survey had been undertaken, the Conservator of Forests at Rotorua, actually spoke against the idea of a national park in Te Urewera. He was in no doubt that 'the Urewera will ultimately constitute a great national playing area for at least the North Island, as well as a great sanctuary for the native avifauna and flora of New Zealand', but he was 'definitely against alienation and placing [the lands] under the control of a board of management as in any case of National Park for instance'.¹¹⁴

Early in 1936, a meeting of senior Crown officials representing the Department of Lands and Survey, the Native Department and the State Forest Service was convened to discuss the Galvin and Dun report. The meeting agreed all the Crown land in Te Urewera should be reserved for scenic and historic purposes, and that it should be administered by the State Forest Service. The Under-Secretary of Lands later commented to the Minister of Lands:

It might perhaps be considered that the area should be made a National Park, for which purpose it is undoubtedly well adapted. However, it was thought that under present conditions preservation as a National Park would probably result in administrative difficulties, and it seemed to the Committee that a reservation for scenic and historic purpose would be simpler and would just as effectively provide for the object in view, which is, of course, the preservation of the greater portion of the Urewera in its natural state.¹¹⁵

113. Ibid

114. Conservator of Forests, Rotorua, to Director of Forestry, 8 May 1935, Fi 8/2/5 Urewera County, vol 3, 1923–1937, NA Wellington; cited in Campbell, pp25–26

115. Under-Secretary of Lands to Minister of Lands, 24 February 1936, Fi 8/2/5 Urewera County, vol 3, 1923–1937, NA Wellington; cited in Campbell, p26

The Under-Secretary anticipated that the proposal ‘would be well received by the Natives . . . it is essential that the goodwill of the Natives should be secured, as without it the adequate protection of the Crown areas might easily become exceedingly difficult’. He added that it was the Department of Lands and Survey’s intention to conduct negotiations.¹¹⁶

In fact, Te Urewera’s iwi were not as ready to cooperate as either Galvin and Dun or the Under-Secretary of Lands had hoped. Evidence of that comes from the record of a conference that Galvin held with Tuhoe at Te Whaiti on 5 July 1936. When Galvin spoke, he told Tuhoe that the proposals in his report were intended ‘to help every Maori of the Urewera’.¹¹⁷

William Bird, a Ngati Manawa elder, expressed the Maori resistance to the Crown’s proposals in terms of their past experience. ‘I think you are too late’, he said. ‘When you mentioned, Mr Galvin, that you are here for the good of the Maori people, I might try and brush up your memory a bit’. The reference was to what Tuhoe considered broken were promises concerning the development of their open lands at Murupara and Galatea. He also referred to an earlier meeting, when one of the Crown commissioners for the Urewera Native Reserve had objected to Maori being allocated a forest block at Te Whaiti. He recollected the commissioner’s words: ‘No! Kick the Maoris out. We do not want them here in the bush – kick them out on the flat’. Bird described how his people:

were cast out of Te Whaiti No 2 and placed on these hills . . . and even though we got that part, the Crown came along and went and made a Reserve of the roadside, and we still had to take to the back country . . . Mr Galvin, I think that your ‘aroha’ for the Maori people is only surface deep. I do not think you really mean it in your heart.¹¹⁸

Pere Meihana also told Galvin that he was ‘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. I know in the past there has been considerable trouble between our elders and the officers of the Crown as to the boundaries.

Meihana then detailed the very low price, compared with other parts of the country, that the Crown had paid for high quality Te Urewera timber land. Regarding one of the main forest blocks of interest to the Crown, the Te Whaiti Residue, as it was called, he stated:

116. Ibid
 117. Notes on Conference between Mr Galvin & Representatives of Maori People of the Urewera, July 5 1936; cited in Campbell, Supporting Documents vol I, p59¹¹⁸
 118. Ibid

we do not wish to deal with it in any manner or form. We wish to reserve this Block for all times for the benefit of our Maori people. What I mean is this – that we wish to have this timber reserved in the meantime for our people, children and grandchildren.¹¹⁹

The Tuhoe representatives at the 1936 Te Whaiti hui told Galvin that they would not give their consent to the Crown's plans. They told him they wished to meet the Prime Minister to discuss the matter. They stressed that they wanted to uphold their rangatiratanga, and that from what they had seen of the Crown's proposals, it did not intend to allow that.¹²⁰

Galvin's meeting with Te Urewera iwi at Te Whaiti was one of a series of meetings with Maori landowners he undertook with another Lands and Survey official, Shephard. The pair were instructed by the Under-Secretary of Lands 'to conduct negotiations with the Natives with the object if possible of preserving the bush on Native lands along the Te Whaiti-Waikaremoana Road'. The rationale was that 'this road, which runs for many miles through blocks still remaining in the hands of the natives, is destined to be one of the most important scenic highways in the Dominion'.¹²¹

Notwithstanding the opposition of Te Urewera iwi – such as that expressed at the Te Whaiti meeting – the report Shephard and Galvin wrote became singularly influential in shaping the Crown's intent to acquire further Tuhoe forest country for preservation purposes. Particularly significant was their recommendation that 'private alienation of [Maori] land and timber be prohibited pending completion of negotiations for their acquisition by the Crown'.¹²²

The second theme of Crown actions highlighted in this review, relating to the acquisition of Maori-owned lands and resources for national park purposes, is Ernest Corbett's concern (as Minister of Lands, State Forests and Maori Affairs) that the Crown properly consult with Tuhoe landowners in effecting the acquisition of lands for national park purposes.

Corbett's intention was that Tuhoe would not be forced to sell their forests if they did not wish to. However, the evidence suggests the clear intention of the Department of Lands and Survey was to eventually include in the national park whatever Maori land was appropriate for national park purposes. Forest Service policy had some parallel with this. Prior to Corbett's ministerial appointment in 1949, the Forest Service had

119. Ibid

120. Ibid

121. Under-Secretary for Lands to Minister of Lands, 24 February 1936, Fi 8/2/5, Urewera County, vol 3, 1923–1937, NA Wellington; cited in Campbell, p27

122. Notes of Conference between Mr Galvin and Representatives of Maori people of the Urewera, 5/7/1936, Fi 8/2/5, Urewera County, vol 3, 1923–1937, NA Wellington; cited in Campbell, p29

consistently followed a policy of recommending to its Ministers that no consents be given to applications to mill forest on the Maori-owned blocks in Te Urewera. These blocks were earmarked to be acquired and eventually included in the national park.¹²³

There is no doubt that the Crown used the rationale of ‘scenic purposes’ to acquire Maori land in Te Urewera for other reasons. A 1948 memorandum to the Minister of Lands and the Commissioner of State Forests reiterated the Government’s decision, in the wake of Shephard and Galvin’s report, that ‘a gradual policy of acquisition of Maori land would be pursued’.¹²⁴ The memorandum recommended that:

authority be given for the Lands Department and the State Forest Service to ask the Maori Affairs Department to proceed with the acquisition of the eleven blocks scheduled, and that financial provision be made on the 1949–50 Estimates of the Lands Department for the acquisition of the land for scenic purposes. Blocks Nos 10 and 11 would probably be more appropriately acquired out of funds for flood control and soil conservation but in the meantime it would be convenient to deal with their acquisition as one for scenic purposes. An adjustment between accounts could no doubt be made later on, if necessary.

It is also recommended that authority be given to proceed with investigation into further Maori blocks in the Urewera, with a view to the gradual acquisition of areas deemed worthy of preservation for scenic and water conservation purposes.¹²⁵

On 11 February 1949, Cabinet approved the purchase of 8684 acres of Maori land in Te Urewera ‘in the interests of Scenery preservation and water conservation at the estimated cost of £24,725’.¹²⁶

The 1948 memorandum also ‘recommended most strongly that milling should not be allowed’ on a series of blocks in the Te Whaiti Residue around the western end of the Waikaremoana road, ‘and that the Crown should acquire them from the Maori owners’.¹²⁷

The link between the Crown’s intention to create a national park and the Forest Service’s controls on milling in Maori-owned forests is evident in a letter from the Director-General of Forests to the Commissioner of Crown Lands the year before Urewera National Park was gazetted:

The Hon Minister [Corbett] in several public statements has indicated his great interest in establishing the nucleus of a National Park in

123. Campbell, p60

124. Memorandum from Under-Secretary for Lands and Asst Director of Forestry to Minister of Lands and Commissioner of State Forests, 23 December 1948, Urewera Country: Crown Land and Maori Lands, in BAHT 1466/547b, NA Auckland

125. Ibid

126. Cabinet Secretary’s note, attached to ibid

127. Ibid

the Urewera. He has proposed that the Crown land area of 425,000 acres be meantime proclaimed a national park. It is also possible that the areas held by the Tourist Department surrounding Lake Waikaremoana will be included in the Park and it may be that some of the State Forest areas but not those which are being milled would be included.

It is not intended to interfere with the rights of the Maoris in this area but where the Maoris sell the timber on their blocks to millers, then the Crown, as a matter of practice, steps in and issues a prohibition under Section 65 of the Forest Act 1949. In the cases where prohibitions have been issued it has of course been established by inspections that the milling will result in deterioration in the conservation value of the land and will also cause erosion and flooding. Following the issue of these prohibitions the Crown takes action to acquire the land and the timber from the Maori owners. The Maoris are definitely opposed to dealing with the Crown on the basis of sale and so far no negotiations have been finalised. . . . it would evidence good faith of the Government in preserving the Urewera if the Crown owned areas were proclaimed a National Park. This would give the Maoris an assurance that it was not the intention of the Crown to buy their milling timber areas and later work them over for the timber at an appropriate time. There has been a suggestion on the part of some representative Maoris that this is behind the Crown's move in issuing the prohibitions and offering to buy.¹²⁸

Campbell concludes, in her 'Te Urewera National Park' report, that in the years leading up to the creation of Urewera National Park, until the Crown was in a position to acquire the areas of indigenous forest which remained in Maori ownership, the Crown actively prevented the Maori owners from using these areas. Despite these restrictions, by 1953 Maori owners were beginning to log their forests themselves. Corbett was determined to counter this, but in a way that would secure, rather than jeopardise, Maori consent to the Crown's plans to purchase land which remained in Maori ownership for the national park.¹²⁹

Many of the areas of Maori-owned land that the Crown wanted to acquire for the national park contained millable indigenous forest. By 1953, the Crown knew it would have to tread very carefully to secure them. Campbell reports that although Corbett publicly professed to give full consideration to the interests of the Maori owners of these forests, he refused to do so to the disadvantage of the state or the national park. He was,

¹²⁸. Director-General of Forests to the Commissioner of Crown Lands, Gisborne, 22 July 1953; cited in Campbell, Supporting Documents, vol I, p102

¹²⁹. Campbell, p160

Campbell says, firmly decided that Maori landowners should not be able to mill or clear land ‘indiscriminately’.¹³⁰

Senior Department of Lands and Survey officials recognised that ‘the Maoris are definitely opposed to dealing with the land on the basis of sale’ and were concerned at ‘the huge cost of acquisition of Maori interests’.¹³¹ The Director-General of Lands acknowledged that ‘there has been a suggestion on the part of some representative Maoris that this is behind the Crown’s move in issuing the prohibitions and offering to buy’. He considered that:

it would evidence good faith of the Government in preserving the Urewera if the Crown owned areas were proclaimed a National Park. This would give the Maoris an assurance that it was not the intention of the Crown to buy their milling timber areas and later work them over for the timber at an appropriate time.¹³²

This is in effect what happened. Urewera National Park was gazetted in July 1954. The park board did not meet until 1962, and until the mid-1970s a large part of its time, was taken up with the acquisition of Maori land, in particular the bed of Lake Waikaremoana and the reserves on its shore. The thrust of this effort was to bring ‘enclaves’ of Maori land into the park, not to accommodate any expression of Tuhoe rangatiratanga with respect to their customary relationship with the indigenous flora and fauna.

Just three months before the national park was gazetted, a special committee was appointed by the Minister of Maori Affairs ‘to discuss matters affecting Maori owned lands in the prospective National Park in the Urewera’. The committee met in the Native Land Court at Rotorua on 24 March. It included two representatives of Te Urewera iwi, Sonny White and John Rangihau. Rangihau later became a member of the Urewera National Park Board.¹³³ At the inaugural meeting of the committee, White said that Tuhoe were:

appreciative that some of the lands should not be denuded of forest but there is also land where they could take the timber off and farm it afterwards [He then read from page 10 a portion of the Minister’s statement] . . . we are prepared to reserve all high country and some of the scenic along the roads but some of the land is farmable right up to the roads and we want to farm that.¹³⁴

130. Corbett’s words are reported in Confidential ‘Notes on Discussion with the Minister: Urewera Maori Lands’, 4 March 1954, FS 8/2/5, BAHT 1466 498b, NA Auckland; cited in Campbell, p163

131. Director-General Grieg to Commissioner of Crown Lands, Gisborne, 22 July 1953, LS 4/4 Urewera National Park, vol 5, 1944–54, DOC Gisborne; cited in Campbell, p51

132. Ibid

133. Minutes of a Special Committee appointed by the Hon Minister of Maori Affairs to discuss matters affecting Maori owned lands in the prospective National Park in the Urewera, in Native Land Court, Rotorua, 24 March 1954, in BAHT 1466 498b, NA Auckland

134. Sonny White, in *ibid*

Tuhoe did not want to sell their land and then have to face leaving Te Urewera to make a living. They asked to exchange the approximately 40,000 acres of Tuhoe land that the Crown wanted for the national park for other Crown land within Te Urewera, on which they could continue to live. It was Tuhoe land anyway, in their minds; it was some of the Urewera Confiscation land:

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.¹³⁵

Similarly, when Sonny White spoke as a representative Maori owner to a 1953 Ruatahuna hui at which Corbett was present, as planning for Urewera National Park was being finalised, he said that the owners of the forest 'wanted to see large portions of it preserved as a national park'. But he added that 'there were tracts also which should be developed to support the Maori people who lived in the hills'.¹³⁶

In the years immediately after the park was gazetted, Corbett's objective of controlling milling on Maori-owned land the Crown wanted for national park purposes led to the establishment of the Urewera Principal Committee and the Urewera Land Use Committee. The principal committee was seen by the Crown as the most effective way to approach Maori landowners in the Urewera National Park region regarding the future of their land holdings. Corbett's appointments to the committee included the Secretary for Maori Affairs, but no representatives of Te Urewera iwi.¹³⁷ The Urewera Land Use Committee did have Tuhoe representation.¹³⁸

Despite Corbett's direction that Te Urewera iwi were to be properly consulted about their lands and forests, and Crown reports on Te Urewera lands which, from the 1920s on, had consistently stated that scenery preservation and catchment forest protection proposals would need the active support of Te Urewera iwi to succeed, the prevailing impression is that Crown officials involved Te Urewera iwi minimally and only when absolutely necessary.

The result was that Urewera National Park became a subject of continuing grievance. When the Maori members of Parliament spoke in the debate on the National Parks Bill in 1952, they did not support a national park in Te Urewera. The member for Eastern Maori, Mr Omana, expressed Tuhoe's concern about the proclamation of a national park. The Member for Southern Maori, Eruera Tirikatene, spoke in favour of the

135. Ibid

136. *Rotorua Post* report, 24 January 1953; cited in Campbell, p 49

137. Campbell, p 163

138. Ibid

Bill. But he admonished Corbett for not appearing to ‘appreciate the sentimental value attached to [Te Urewera]’. He felt that Corbett ‘should know that there was a vast difference between the value attached to this land by the Tuhoe tribe and its hapu and the value placed upon it by the pakeha’.¹³⁹

The Crown consistently made decisions on matters of substantial significance concerning customary Tuhoe resources without Tuhoe representation. Despite Corbett’s undertaking that Tuhoe would be consulted, it appears that often they were not. For example, when Corbett established the Urewera Land Use Committee in 1954, Tuhoe were not invited. They had to secure membership through their own volition.¹⁴⁰

The failure of national park policy to maintain the customary Maori association with the indigenous flora and fauna became evident at another level once Urewera National Park and its board became operational. When Tuhoe people continued to use the indigenous flora and fauna in the national park as they had traditionally, the Crown did not regard it as customary resource rights, but as old, outmoded ways that would soon vanish as Tuhoe became accustomed to the new ways of the national park. In 1955 for example, there was concern within the Department of Lands and Survey at the ‘destruction of *Cordyline indivisa* [ti toi, the mountain cabbage tree] within the boundaries of the national park’. Maori seasonal hunters employed by the park board to exterminate introduced animals were believed to be to blame. The Commissioner for Crown Lands told the Conservator of Wildlife in Rotorua:

Mr. Teague advises that it is an old Maori custom to boil the soft central fronds of the above-mentioned trees and eat them. He considers that unthinking Maoris have taken these trees for food and it may be possible that some of your employees have taken the centres out of the trees. It would be helpful if you could circularise all of your men to ensure that the trees are no longer interfered with’.¹⁴¹

The National Parks Act 1952 prohibited ‘breaking, cutting, injuring, or removing any, or any part of, any weed, tree, fern, shrub, plant, stone, mineral, or thing of any kind’.¹⁴²

In 1963, the park board discussed a petition from W Matamua and others about picking the the young shoots of the edible fern, pikopiko (spleenwort, *Asplenium bulbiferum*). Traditionally, this plant was a staple food and delicacy of Tuhoe. Pikopiko is a widespread and abundant

139. NZPD, 1954, vol303, p75; cited in Campbell, p58

140. Director of Forestry to Commissioner of Works, 1 April 1954, BAHT 1466/498b, NA Auckland

141. Commissioner of Crown Lands to Conservator of Wildlife, Internal Affairs, Rotorua, 20 October 1955, re Urewera National Park, BAHT 5118/69b, NA, Auckland

142. Section 34 of the National Parks Act 1952

species throughout lower-altitude forests of Te Urewera, and there would appear to be no prospect of it being endangered by such harvesting. But to do so was illegal under the National Parks Act. The park board agreed with the National Parks Authority's opinion

that the best way to approach the difficulty would be for further consultations between the Park ranger and the Maoris. The Authority thought that some satisfactory arrangement could be reached and that ultimately, by persuasion and education the Maoris would cease picking piko-piko'.¹⁴³

Ernest Corbett, the Minister who steered the gazetting of Urewera National Park in the early 1950s, recognised that Te Urewera iwi had 'a great love of their land' and were unwilling to relinquish it.¹⁴⁴ But Urewera National Park still became another park in the Yellowstone model. As was the case in all New Zealand's national parks, the indigenous people who had traditionally occupied its ecosystems lost all customary rights of association with its indigenous flora and fauna. Te Urewera iwi had minority representation on the park board as an interest group, along with tramping clubs, conservation groups, local farmers and others. But the national park did not embrace their values.

Between 1954 and 1983, Urewera National Park was managed on the basis that it was an arrangement in the national interest to which Tuhoe had to adjust, without any incorporation of the customs and traditions that tied them to Te Urewera ancestrally. Tuhoe continued to endeavour to resist further Crown incursions into their shrinking resource. In 1967, despite the long legal battle that had upheld customary Maori ownership of Waikaremoana, the Crown had not given up the idea of acquiring full ownership of the lake with a view to its inclusion in Urewera National Park. The Department of Lands and Survey reported to Parliament that year :

Over several years efforts have been made, without success, to have the bed of Lake Waikaremoana included in Urewera National Park. For the first time a formal meeting of over 150 of the Maori owners was convened, and although the Crown's offer was rejected the owners appointed a steering committee to conduct further negotiations.¹⁴⁵

Eventually, in August 1971, a deed was signed executing a 50-year Crown lease of Waikaremoana from the Wairoa and Tuhoe Maori Trust

143. Urewera National Park Board, Minutes of Fifth Meeting, 20–22 February 1963; cited in Campbell, 'Supporting Documents', vol2, p175

144. Confidential 'Notes on Discussion with the Minister: Urewera Maori Lands', 4 March 1954, FS 8/2/5, BAHT 1466 498b, NA Auckland

145. AJHR, c-1, 1967

Boards, on behalf of the Tuhoe, Ruapani and Ngati Kahungunu owners, with a perpetual right of renewal. The legislation to confirm the lease, the Lake Waikaremaoana Act, was passed on 16 December 1971. In indigenous flora and fauna terms, the Act, like the deed, made no mention of the owners' fishing rights.¹⁴⁶

In other situations, Tuhoe continued to voice their opinion that Tuhoetanga was inadequately incorporated in the park's management. In 1970, the Tuhoe elder on the Urewera National Park Board, John Rangihau, spoke of 'the place that Maori tradition and culture should take in planning for the Park'. Tuhoe, he said, were anxious about the Crown's continuing desire to acquire their forest lands at Ruatahuna and Maungapohatu, 'the very centre of their history and culture'. They did not want it taken from them, nor did they intend to clear it 'because they felt that their spirit was still linked closely to the forest in this area . . . They were prepared to work with the Board as long as the land could still remain in their possession'.¹⁴⁷

One of the major historical studies of the Crown/iwi relationship in Te Urewera has described the difficulties that Tuhoe have had in living with a system of Crown laws and ideas about land and natural resources not of their making, and considered by them to be contrary to what iwi were guaranteed by the Treaty of Waitangi. The study's authors consider that this situation raises Treaty issues that need resolution.¹⁴⁸ Campbell's more recent study sets out the degree to Crown control, in the name of preserving the indigenous flora and fauna, has overwhelmed Tuhoe rangatiratanga. She concludes her investigation with the words:

Te Urewera is Tuhoe land. Their history, traditions, literature and culture are about Te Urewera, and their forebears are buried there. The establishment of a national park in the Urewera has had, and continues to have, an enormous and incredibly restrictive impact on Tuhoe. The State has, in effect, forced these people to reconcile their lifestyles with national park policy.¹⁴⁹

A significant issue raised by the indigenous flora and fauna claim concerns what the claimants term 'the creation of "reserves" by the Crown for the "protection" of species of flora and fauna'.¹⁵⁰ Implicit in this statement is that Maori have lost land and indigenous flora and fauna resources through the creation of reserves and national parks. The process has also denied iwi Maori the opportunity to exercise kaitiakitanga and thus

146. White, p161

147. Cited in Campbell, p107

148. Evelyn Stokes, J Wherehuia Milroy, Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera*, University of Waikato, Hamilton, pp350–352

149. Campbell, p168

150. Wai 262 record of inquiry, claim 1.1(b), particulars of claim 4.2(c)–(e)

breaches article 2 of the Treaty.¹⁵¹ The claimants also assert that ‘the denial of te tino rangatiratanga removed the effective ability of Iwi to control the manawhenua of the indigenous flora and fauna within their respective rohe and to preserve and protect that biota’. That protection, the claimants aver, has either been inadequately replaced by Crown policies or completely usurped by legislation in breach of the Treaty of Waitangi.¹⁵²

These matters of the indigenous flora and fauna claim are reflected in the continuing grievances of Te Urewera iwi concerning Urewera National Park. However, to what extent Crown actions concerning the establishment, protection and operation of the national park might have been abrogations of article 2 of the Treaty is difficult to determine from the level of historical research that has been undertaken to date.

Not least of the difficulties is making an assessment of the adequacy or otherwise of the Crown’s dialogue with Te Urewera iwi from the fragmentary record of negotiations that has been archived, and studied to date by historical researchers. The negotiations with Tuhoe before the 1936 Shephard and Galvin report, for example, were presumably via a series of meetings in different districts, but only the record of the July 1936 meeting at Te Whaiti seems to have survived.¹⁵³

More detailed research will be necessary if the Waitangi Tribunal considers Urewera National Park an area of Crown actions concerning the indigenous flora and fauna on which it wishes to focus. The Crown consulted Te Urewera’s iwi and included them in meetings concerning Maori-owned land when it created Urewera National Park. But was it adequate, and did it occur when, before creating the national park, the Crown decided to prohibit Maori owners from logging their indigenous forests? Did the Crown have regard to Te Urewera iwi’s wishes to retain rangatiratanga over their indigenous forest resources? What forms did it take? Some of these questions may be answered by research into the various New Zealand Forest Service files from the late 1920s to the 1950s.

At the same time that Maori-owned land was being acquired for the national park, and the Forest Service was placing prohibitions on logging, Te Urewera iwi were being targeted on their own lands for hunting kereru. This is discussed in section 4.1.2 of chapter 7 of this report, and should be read in association with this section.

It is this author’s impression that throughout the period from 1912 to 1983, the antipathy of Maori to Urewera National Park, as a Crown action separating Tuhoe from their whenua, would appear to be greater than

151. Ibid

152. Ibid, particulars of claim 5.1(a), (b)

153. Notes of Conference between Mr Galvin and Representatives of Maori people of the Urewera, 5/7/1936, Fi 8/2/5 Urewera County, vol 3, 1923–1937, NA Wellington; cited in Campbell, p29

their support for it. When their support was given, in terms of agreeing to sell land, it was reluctantly given, and under considerable duress from the Crown. What is also apparent is that the Crown at no time endeavoured to integrate Tuhoe and Tuhoetanga into the planning and principles of Urewera National Park, along the lines, say, that the 1975 South Pacific Conference on National Parks and Reserves recommended: involving the rights of the land's indigenous people in national parks established on their customary lands.¹⁵⁴

What is evident from the research is that for many Te Urewera Maori, the creation of the park brought a major, unwelcome change in their lives. Tuhoe elders interviewed in 1987 for the national park centennial television series *Journeys in National Parks* stated:

As soon as the Pakeha changed it to a national park, all the hassles began – everything was restricted . . . It's as if they think they own the place . . . We should have the power to care for our own land.¹⁵⁵

Part of the opposition from Maori stems from the degree to which national park management policies have extinguished customary conservation practices respecting the indigenous flora and fauna, in order to facilitate the national park objective and its associated concepts such as 'wilderness areas'. Te Urewera iwi have continued to reiterate this point since the park was created. In 1970, the Tuhoe kaumatua John Rangihau, who was also a member of the Urewera National Park Board, told the Minister of Maori Affairs of the representation he had made on behalf of Tuhoe to the regional Bay of Plenty meeting of that year's National Development Conference. Rangihau stated that:

the Maoris in the Urewera areas have always practised some forms of conservation to fit in with their general environment. It is apparent that their history speaks of maintaining the balance of nature. You will appreciate of course that they grew from nature all their foodstuffs and for this reason they were experts in bird life and all the other food that they could gather from the forest areas in which they lived. Indeed this was so much so that every time they needed to take any birds for food they went through ceremonies paying tribute to mother nature. They were all designed to ensure that future supplies would be kept intact and also to ensure that in the taking of birds they did not create or disturb the position as they saw it. They were very careful to ensure that the young birds were

154. Conference Recommendations, *Proceedings of the South Pacific Conference on National Parks and Reserves*, Department of Lands and Survey Wellington, 1975; also in AAAC Acc W2789 19/2/4, pt 15, NA Auckland
155. Paetawa Miki, Hirini Melbourne, Jim Milroy, Mau Rua, Te Ahi Kaiata, Iraia Rua, Mino Takao: interviewed in no 4, *Te Urewera*, TVNZ Natural History Unit, 1987

given full opportunity to mature and as a result of this they had strict seasons in which they would take the various birds;

. . . As far as the food from the forest was concerned, they named every tree which bore fruit within a prescribed area and no other person or tribe would be able to interfere with these trees and in fact as a result of some interference being caused by other people, this led to some of their skirmishes throughout their tribal history;

. . . They are so much aware of the need for the preservation of the areas where wild life and forests abounded that their present descendants carry this feeling over to the present day.¹⁵⁶

In 1995, these issues were comprehensively expressed by Tuhoe in *Te Awa*. This was a critique to the Crown concerning the Department of Conservation's Conservation Management Strategy for the lands which centre on Urewera National Park. In the preface, Tuhoe described how their own customary resource management system for Te Urewera had evolved:

Strategic states of seasonal habitat with the ecosystems of flora and fauna, people and animal life emerged. Traditional memoranda of understanding and safeguards in harvesting and regulating input and output provided for the maintenance and advancement of the social order of cultural, historical, economic wellbeing of the people.¹⁵⁷

The Tuhoe submission to the Department referred to the substantial, persistent differences between Tuhoe and the Crown as to 'how the land, plants, animals and bird life should be cared for as well as the intellectual knowledge associated with those areas'. It stated that:

Land ownership use and management patterns developed by settlers and successive government legislation over a century and a half have been largely incompatible with those historically developed by Tuhoe. When the Te Urewera National Park was created by the Crown they excluded Tuhoe people from their land crucial to their survival.¹⁵⁸

The submission compared the taking of Tuhoe land and resources to create Urewera National Park with the postwar land confiscations of the 1870s: 'We have been denied constitutional access to primary hunting and harvesting grounds for the subsistence of our communities.' It said that:

156. John Rangihau to Minister of Maori Affairs, 13 July 1970, reporting on a meeting of Tuhoe at Rotorua, in speech to Bay of Plenty 'Mini' National Development Conference: 'Maori development in relation to the physical environment and in the future', MA W2459 19/1/717, pt1, NA Wellington

157. *Te Awa*: Tuhoe Submission to the Department of Conservation on CMS Documents vol I & II, 29 September 1995, Otoki Marae, Ruatoki, ptII 'The Tuhoe Perspective of Its Environment'

158. *Ibid*

The failure of National Park policy to appreciate the natural links that Tuhoe has with its environment as a component of its livelihood is further evident in what we are experiencing in terms of devastating health and social consequences affecting Maori.

The issue, Tuhoe said:

was, and still remains one of power relationships, a question of Tuhoe authority over their land and resources: tino rangatiratanga, as Article II of the Treaty of Waitangi would have it. There is no question about its intrinsic and historical aspects belonging to us with or without legislation. The challenge is to develop legislation and regional policy in such a way that we enter it with our Tuhoe Tino Rangatiratanga.¹⁵⁹

The same issues were central to a major 1980s study of Te Urewera iwi and their relationships with their forests and whenua by the University of Waikato, for the Department of Lands and Survey and the New Zealand Forest Service. Urewera National Park was, along with Crown indigenous forestry policies, one of the study's key concerns.¹⁶⁰ The study was particularly critical of the manner and extent to which the Crown's quest for control of Tuhoe's customary resource base, that is the indigenous flora and fauna and other traditional resources, was based on eurocentric values to the exclusion of customary Tuhoe values. The national park concept itself – as the Crown and the settler preservationist lobby of the late nineteenth and early twentieth centuries had developed it in New Zealand – was central to the study's concern with Urewera National Park. It was, they concluded, a concept inappropriate to the needs and values of iwi such as Te Urewera's Tuhoe and Ngati Ruapani. The Crown, furthermore, had been deficient in consulting with those iwi in the process of establishing the national park.

The University of Waikato team was particularly concerned, in this regard, with the concept of 'wilderness' as it appeared in key Crown policy statements such as the Urewera National Park management plan. The first such plan stated, for example, that 'much of the park's present attraction lies in the seemingly impenetrable wilderness of the present Urewera'.¹⁶¹ The study's argument with such an operational principle was that the indigenous people of Te Urewera, who had many centuries of ancestral connection to the same landscapes, and their plants and animals, could not

159. Matters 6,8,9 and 13, *Te Awa: Tuhoe Submission to the Department of Conservation on CMS Documents vol I & II*, 29 September 1995, Otoki Marae, Ruatoki

160. Stokes, Milroy, and Melbourne, p34

161. Urewera National Park Board and Department of Lands and Survey, *Urewera National Park First Management Plan, 1970, LS 4/4, Urewera National Park, vol 5, 1944–54*, DOC Gisborne; quoted in Stokes, Milroy and Melbourne, p34

perceive as 'wilderness' what they understood as ancestral and home places, and had no reason to do so.

If the customary Maori relationship with Te Urewera was a factor in the management of the park, it was only as an aspect of the region's history – it had no place in the present. It was the same principle articulated by Elsdon Best in his 1897 guidebook to the Urewera country: 'the desire to look upon the unwrought wilderness and note the war which has waged for untold centuries between it and primitive man – neolithic man, who has opened up the trails through the great forest he could not conquer – trails by which the incoming pioneers of the Age of Steel shall pass along'.¹⁶² The Crown maintained this vision into the modern era in its promotion of Te Urewera as a 'land of primaeval nature and primaeval man' in park handbooks and guides for Pakeha visitors.¹⁶³ It is evident today in the presentations about Te Urewera's landscape in the national park visitor centre at Aniwanui. It was from such perspectives that the 'preservation of the wilderness character' became central to Crown policies for the park. The 'primary objective of management', for example, in the park's first management plan stated:

The emphasis has been placed on retaining the wilderness character of the Urewera and the major challenge has been to ensure the preservation of the integrity of the Park, while at the same time realistically and sensitively providing for the large number of people who visit each year.¹⁶⁴

In other words, the University of Waikato study said, the national park idea has centred around the imported concepts of the immigrant European culture, for the benefit of the visitor experience, and has marginalised Te Urewera's indigenous culture to the edges of the national park experience. Integral to the process has been the confinement of Maori matters to the past. Maori have been portrayed to the national park's visiting public as something ethereal and intangible:

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. Revered ancestors are not just part of a genealogy but part of the land. The name of every river and hill, every rock and tree, brings the history of 1000 years to life again.¹⁶⁵

162. Elsdon Best 1897, *Waikaremoana The Sea of Rippling Waters: The Lake, The Land, The Legends, with a Tramp through Tuho Land*, Government Printer, Wellington, 1975 reprint

163. Department of Lands and Survey, *Handbook to the Urewera National Park*, Urewera National Park Board, Hamilton, 1966

164. Department of Lands and Survey, 'Urewera National Park Management Plan', Urewera National Park Board, Hamilton, 1976

165. Department of Lands and Survey, *Land of the Mist, The Story of the Urewera National Park*, Government Printer, Wellington, 1983, (the successor to the 1966 Park 'Handbook')

As the University of Waikato study noted, there is an essential difference between ‘this Pakeha view of resurrecting the past as some sort of romantic inspiration and enjoyment of a ‘wild’ landscape’ and the Maori view of the world in which the past is part of the present. But it is this removal to history that provided the mechanism that allowed the Crown to eschew acknowledgment of traditional Maori rights or customary use from national parks and scenic reserves legislation. The study sought changes in Crown legislation and policy accordingly. It is in the national interest, it concluded, ‘not only to preserve the scenic and wilderness resource of the indigenous forests of Te Urewera but also to preserve the unique social and cultural resources of Te Urewera communities’.¹⁶⁶

Among the study’s recommendations were:

- ▶ A review of legislation providing for the management and administration of Crown lands is needed which recognises traditional Maori rights and customary uses comprehended in the spirit and intention of Article Two of the Treaty of Waitangi.
- ▶ In acknowledging traditional or customary rights and uses of resources of forests, lakes and rivers, these should be identified with particular hapu and whanau who act as kaitiaki, trustees.
- ▶ In matters of conflict over particular traditional rights or customary uses between local people and rangers or other officers of the Crown, the appropriate tribal authority should be asked to adjudicate.

The University of Waikato study specifically recommended that ‘the matter of traditional rights and customary uses in indigenous forests should be referred to the Waitangi Tribunal for definition where and when there is some doubt about the nature and implications of such rights and uses’.¹⁶⁷ In this regard, the study reviewed both the relationship Tuhoe iwi had with the Treaty of Waitangi, and the situation in national parks in Canada, the United States and Australia in respect of the traditional natural resource rights of indigenous peoples. Campbell appended similar comparisons to her 1999 *Te Urewera National Park* report.¹⁶⁸

^{166.} Evelyn Stokes, J Wherehuia Milroy, Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera*, University of Waikato, Hamilton, p34

^{167.} Recommendations: from ibid

^{168.} Campbell, app 4, pp 182–185

6.5 MAORI PETITIONS TO PARLIAMENT CONCERNING NATIONAL PARKS

The few Maori petitions to Parliament concerning national parks all concern Urewera National Park, specifically Waikaremoana. They are

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primarily concerned with the taking of land for scenery preservation and the damaging effects of tourism. The indigenous flora and fauna is a stated concern in only very limited ways.

In 1912, Hurae Puketapu and 84 others petitioned Parliament requesting that an inquiry be made into the boundary between Waikaremoana and the Urewera Native Reserve, and that the boundary be adjusted. Their petition also asked that Parliament:

pass a law in reference to our kaingas on the shore of Waikaremoana Lake to prevent the European visitors from interfering with or damaging our whares, and our plantations of peach trees, apples, and pears, which are being interfered with by the said Europeans.¹⁶⁹

This petition led to the Native Land Court's 1918 decision that the lake bed was customary Maori land. That decision initiated a succession of litigations concerning the ownership of Waikaremoana, which culminated in 1971 with legislation enabling the Crown to lease the lake from its three iwi: Tuhoë, Ngati Ruapani and Ngati Kahungunu.

In 1914 Marangai Hurae and 201 others of Wairoa petitioned Parliament:

in regard to the wish of the Government to take the Western side of Waikaremoana Lake, viz 14,280 acres thereof, but we the persons who own that land do not consent to its being taken by the Government . . . on the following grounds:

- (1) The said land is in our constant occupation.
- (2) We have a number of settlements (kaingas) on the land, intended to be taken.
- (3) The live stock owned by us now on the said land is comprised of cattle, horses, sheep and pigs
- (4) The said land provides a permanent income to us from the timber thereon.¹⁷⁰

The Crown stated in response that:

Representations have been made to the Government that this area of native land should be acquired under the Scenery Preservation Act, 1908, in order that the forest thereon may be preserved for all times. As you will see by the lithograph, the Government has already reserved all the

¹⁶⁹. Petition 185/1912, LE Series, NA Wellington

¹⁷⁰. Petition 415/14, LE Series, NA Wellington

Crown forest land adjoining the lake, and if this native land could be acquired it would complete a reservation which appears very desirable. All native settlements and cultivations on the shores of the lake are to be excluded from the proposed reservation, and full compensation would be paid to the native owners for the land taken. Should the land remain in the hands of the native owners it is probable that within a very short time all the bush on the northern shore would be destroyed and the scenery irreparably injured.¹⁷¹

The map accompanying this statement graphically illustrated the Crown's intention to secure for scenery preservation both the lake and the parts of its catchment visible from the eastern (Aniwaniwa) end of Waikaremoana where tourism was concentrated. The area included the lakeshore, which would have removed from Maori ownership some very important mahinga kai resources.

The 1914 petition of Rawiri Karaha and four others concerned court judgements regarding the ownership of land and alteration of boundaries between Puatai nos 3 and 4 blocks. The petitioners stated that:

In consequence of the said judgement of the said Appellate Court, we lost our pas which we occupied and which had come down to us from our ancestors, we also lost the places where we cultivated food and the sites of our houses . . . Owing to the said judgement taking away from us our pas, cultivations and our village sites, we protested, but the Appellate Court would not listen to our objections.¹⁷²

Petitions of this kind are not further included in this synopsis.

By the 1920s, Maori were becoming concerned about the increasing numbers of tourists visiting Lake Waikaremoana. This led to petitions such as that of Matamua Whakamoe and 29 others. They prayed that 'access to Lake Waikaremoana over the lands of the petitioners be prevented'. This petition made specific reference to indigenous flora and fauna as the petitioners' resources and the risks that the petitioners faced from tourists crossing their lands:

That those Pakehas who proceed to Waikare-Moana be not – under any circumstances – allowed to do so by way of the Maori-owned lands

171. Letter from Under-Secretary of Department of Lands and Survey, Wellington to the Clerk, Native Affairs Committee, Wellington, 26 September 1914

172. Petition 460/1914, LE Series, NA Wellington

which lie to the West (Rato) of the Waikare-Moana Lake, Te Aniwaniwa, Waipawa or the Urewera Reserve, because of the following risks to us:-

1. Lest our animals be killed.
2. Lest our homes and settlements be unduly disturbed, trespassed upon and interfered with.
3. Similarly as to the bush haunts of our native birds.
4. And so as to all other matters in which we have a special and peculiar interest.

Should any Pakeha desire to go upon any of the above-mentioned lands, such Pakeha must first obtain permission from the above indicated authorities and he must first show that he has a good and legitimate cause for such proceeding.¹⁷³

The Crown response to this petition cited the importance of a 'free and unrestricted right of access' to these areas – a principle of national parks and scenery preservation. The Under-Secretary for the Native Department considered that:

the object of the petition would seem to be to prevent people from visiting Lake Waikaremoana from the Gisborne side; and as the Lake and its scenery is a popular scenic resort it would be contrary to public interest to stop people going there. The erection of the contemplated Power Station at the Lake would also necessitate free and unrestricted right of access.¹⁷⁴

The Native Affairs Committee thus made no recommendation with regard to this petition.

6.6 CONCLUSIONS

The national park idea has become a cornerstone of nature conservation in New Zealand. National parks are the areas that the Crown has acquired in order for people to experience, as visitors, nature relatively untouched by the modern world. As areas in which land with indigenous flora and fauna is preserved from the impacts of human settlement, 'in its natural state', national parks are among New Zealanders' most highly regarded landscapes, and are vital to the tourist industry.

173. Petition 63/1920, AJHR & LE Series, NA Wellington

174. Memo from Under-Secretary for the Native Department to the Chairman, Native Affairs Committee, Wellington, 20 September 1920, in *ibid*

National parks are a significant theme of Crown actions concerning the indigenous flora and fauna because of the fundamental concern of national park law and policy with ‘preservation of the native plants and animals’, ‘ecological systems’ and ‘natural features’, and maintaining environments in ‘their natural state’.¹⁷⁵

The indigenous flora and fauna have always been integral to the national park concept which evolved in New Zealand. It is a concept closely modelled on the first national park, Yellowstone, which was established in the 1870s in the western United States. The primary principle of the national park concept has been the preservation of native plants and animals (and the parallel extermination of introduced plants and animals) on land with distinctive scenery and beautiful, unique or scientifically important ecological systems or natural features.¹⁷⁶ These values have their cultural roots in the European aesthetic tradition.

The Crown’s establishment of national parks and the evolution of the New Zealand national park ethic has been prompted historically by public conservation and outdoor recreation groups. The Crown effected its control between 1912 and 1983 by laws and policies administered variously by the Departments of Tourism and Lands and Survey. These were facilitated through a series of national park boards and by the National Park Authority (the precursor of today’s New Zealand Conservation Authority).

Following the incorporation of the principles of the Treaty of Waitangi into the Conservation Act 1987, the conservation authority investigated some of the issues that might arise from giving effect to the Treaty in Crown policy concerning the conservation of the indigenous flora and fauna. In its investigation of Maori customary use of indigenous birds, plants and other traditional materials, the authority considered the issue in terms of a series of principles:

- ▶ the Crown has a right and a duty under article 1 of the Treaty to preserve indigenous species in the interests of the nation;
- ▶ this Crown right is restrained but not blocked by article 2; the Crown must ensure that iwi Maori’s article 2 rights to the taonga are allowed, even if limited;
- ▶ mahinga kai are taonga under article 2 of the Treaty; so too are the environments in which they are sustained; and
- ▶ iwi Maori are bound to accept that steps will be taken under article 1 to preserve species, constraining their article 2 rights.¹⁷⁷

¹⁷⁵. The quotes are from part I of the National Parks Act 1980

¹⁷⁶. Section 1 of the National Parks Act 1980

¹⁷⁷. New Zealand Conservation Authority, *Finding Common Ground; He Rapunga Tahitanga*, Discussion Paper ‘Maori Customary Use of Native Birds, Plants and Other Traditional Materials’, Wellington, 1997, p42

These principles were recently conceived in relation to the re-emergence of the Treaty of Waitangi in New Zealand life in the late twentieth century. They cannot be considered as matters that might have bound the Crown between 1912 and 1983. Nevertheless, they are useful in providing a guide to some of the issues that have arisen in the period.

Historically, in establishing and managing New Zealand's national parks, the Crown has tended to apply the first of the authority's principles to the comprehensive exclusion of the others. Rather than allowing iwi Maori limited article 2 rights to the indigenous flora and fauna that constitute taonga, the Crown's actions in the national interest have not recognised them. So much so, in fact, that the national park concept in New Zealand has become characterised by the exclusion of Maori article 2 rights.

The great majority of national parks, even much of the area of Urewera National Park, were established on land that had passed out of Maori ownership. Hence, under English common law, customary indigenous rights had already been extinguished on most national park land. The Crown's historic non-recognition of Maori article 2 rights, that is in terms of the conservation authority's series of principles, cannot be held to be acts of commission. Rather, if national parks are to be examined in terms of the Treaty, the actions of the Crown need to be interpreted as acts of omission.

In terms of national park management and policy, the Treaty's article 2 guarantees could mean access to indigenous flora and fauna and the incorporation of tangata whenua within park control and operational authorities. But the national park imperative in New Zealand to set land apart from culture, to preserve it in 'its natural state' and to interfere as little as possible with its indigenous flora and fauna,¹⁷⁸ has largely prevented that. The research for this study, albeit overview in nature, has not identified a single instance where the Crown allowed or accommodated a Maori presence, other than in a few instances of representation on national park boards. Only at the very end of the 1912 to 1983 period, in response to the National Parks and Reserves Authority's release of its *General Policy for National Parks* in 1983, does the Crown record show that there was any consideration of these issues. By this time a consciousness of Treaty of Waitangi principles was beginning to emerge in Government.

The national park concept in New Zealand has its origins in the colonisation process. It was modeled on the approach established in Yellowstone National Park in the western United States of preserving land in its

¹⁷⁸. Condensed from primary purpose of the National Parks Act 1952.

natural state by the complete exclusion of human habitation and use other than as visitors. Like scenery preservation, national parks derive from and exemplify an immigrant culture's perception of land and its native life overwhelming and eliminating the very different perceptions of the culture whose land and environments it has occupied. Most national park areas are in mountainous, high country environments that, while auspicious in Maori traditions, were subject to only ephemeral and seasonal Maori settlement at most. For example, when 72 nohoanga entitlements (rights to camp temporarily at certain areas near rivers or lakes to access customary fishing and gathering of indigenous flora and fauna) were being negotiated in the settlement of the Ngai Tahu Claim, very few were either sought or established in high country environments for the reason that the customary mahinga kai were predominantly located in lower-altitude lake and river environments or on the coast.¹⁷⁹ In fact, the Ngai Tahu Deed of Settlement specified that the Crown lands on which nohoanga entitlements were established be other than land in a national park.¹⁸⁰

That is possibly why, of all the themes concerning Crown actions with respect to the indigenous flora and fauna in the 1912 to 1983 period, that of national parks has been the least disputatious. The only exceptions are Urewera National Park and Whanganui National Park. The Crown was developing the latter before 1983, but it was gazetted later. The national park idea in New Zealand originated with Te Heuheu Tukino, who saved the native integrity of Tuwharetoa's mountains by placing them under the mana of Queen Victoria – the 'Gift', as it is called. By that act, he staved off the Crown's subdivision of tribal land. Perhaps because of this, Maori in general have tended to look upon national parks with greater acceptance than scenic reserves, acclimatisation society rangers or wildlife laws.

It was not until around 1983, it would seem, that a senior Crown official – a Secretary for Maori Affairs – referred to the need for those associated with policies for the conservation of the indigenous flora and fauna in national park and reserves 'to be aware of the principles enunciated in the Treaty of Waitangi'.¹⁸¹ Prior to the Conservation Act 1987, neither the statutes nor policy concerning national parks made specific reference to the Treaty of Waitangi. However, the *General Policy for National Parks* published in 1983 did adopt the principle that 'consultative procedures with local Maori groups which have historical or spiritual ties to land in national

179. Ngai Tahu Settlement: Access to Resources Fact Sheet, Department of Conservation, Wellington, September 1997; Maika Mason, Kaipapa Atawhai manager, DoC, Canterbury, pers comm July 2000

180. Section 12.7.2, Section 12 Mahinga Kai, *Ngai Tahu Deed of Settlement*, Office of Treaty Settlements, Wellington, 1997, p12–16

181. T M Reedy, Secretary for Maori Affairs to the Secretary, New Zealand National Parks Authority, 26 September 1984, ABJZ 869 W4644 19/15/3 p3, NA Auckland

parks will be fostered; in order that the views of such groups might be fully considered in formulating management policies'.¹⁸²

One immediate consequence of the requirement of section 4 of the Conservation Act 1987 that the Crown administer the conservation estate in ways that 'give effect to the principles of the Treaty of Waitangi' was the appointment of Maori to regional conservation boards. This is an indication that earlier Crown actions regarding the representation of interest groups on the boards appointed to administer national parks did not 'give effect' to the principles of the Treaty. The earliest national park, Tongariro, provided in principle for some degree of Maori representation on national park boards – in the provision that one park trustee would always be the hereditary successor of Tuwharetoa's Te Heuheu Tukino. In only one other park, Urewera National Park, was the principle of tangata whenua representation extended in the 1912 to 1983 period. Notwithstanding this fact, the creation of both Tongariro and Urewera National Parks led directly to the cessation of customary use rights of the land's hapu and iwi concerning the indigenous flora and fauna.

It could not be argued that national park policy and legislation was used by the Crown as a general mechanism to secure Crown ownership and control of Maori lands and their constituent indigenous flora and fauna. Nor did national park policy and legislation function to extinguish Maori customary rights over such land. Only one national park, Te Urewera, was established from a land base of which a substantial proportion was Maori-owned land immediately before it was given national park status.

Crown actions in establishing and operating national parks in New Zealand raise issues concerning the way in which national parks have been part of the Crown's general imperative of divesting Maori of control and authority over their natural resources. To create Urewera National Park – to secure and preserve its scenery of distinctive quality and the beautiful, unique, or scientifically important ecological systems and natural features¹⁸³ – the Crown needed Maori land and resources. Some of the actions the Crown took to effect its objective in Te Urewera, such as the prohibition on milling imposed on Maori forest owners, the use of 'scenic purposes' to acquire Maori land for other purposes, and the pressure it put on Maori to release their lands for national park acquisitions, could be considered to have breached the Treaty guarantee to Maori in respect of

¹⁸². Ibid, p8

¹⁸³. Section 1 of the National Parks Act 1980

indigenous flora and fauna: the right to continue a relationship with those resources that was as much about their use as about their conservation.¹⁸⁴

Where national parks were built substantially from Maori land, as was the case with Urewera National Park and Whanganui National Park, the Crown actions to preserve indigenous flora and fauna so eroded some iwi's customary rights and their capacity to exercise them, that local cultures and economies were destroyed. In the case of the Whanganui River Scenic Reserves that formed the core of Whanganui National Park, the Waitangi Tribunal recently found such actions to have been in breach of the Treaty of Waitangi.¹⁸⁵ This is summarised in section 5.2.3 of chapter 5.

Of all the national parks, Te Urewera is where a historical analysis of Crown actions most particularly raises questions with respect to Treaty of Waitangi principles. The park came about in 1954 as a result of Crown investigations of the Urewera Native Reserve in the 1920s and 1930s, although the Crown had been party to the idea of Te Urewera as natural scenery of national value since the 1890s. Initially, there was much disagreement between Crown land agencies as to which parts of Te Urewera should be settled and developed and which should be conserved in their natural state, and whether the Department of Lands and Survey or the Forest Service was the most appropriate agency of control. Both agencies were involved, jointly, in a series of surveys which were intended 'to ensure that the areas which should be permanently reserved for water conservation, climatic and scenic purposes are properly defined and gazetted'.¹⁸⁶ It was as a result of these surveys that Crown officials began stating that the forested country of Te Urewera 'should be made a National Park, for which purpose it is undoubtedly well adapted'.¹⁸⁷ From the late 1930s, the Crown objective became 'the preservation of the greater portion of the Urewera in its natural state'.¹⁸⁸

From 1936 until the late 1940s, when efforts began in earnest to establish Urewera National Park, the Crown decided that 'a gradual policy of acquisition of Maori land would be pursued'.¹⁸⁹ There was negligible Crown consultation with Te Urewera iwi throughout this period, although senior Crown officials stated that 'it is essential that the goodwill of the Natives should be secured, as without it the adequate protection of the Crown areas might easily become exceedingly difficult'.¹⁹⁰

A major 1980s study of the impact of conservation and forestry in Te Urewera on its iwi concluded that the central imperative of Crown

184. Crengle, 1993

185. Waitangi Tribunal, *The Whanganui River Report*, 1999, app III, Findings and Remedies Sought, pp 375–376

186. Under-Secretary of Lands to Commissioner of Crown Lands, Auckland, 14 March 1934, F1 8/2/5, Urewera Country, vol 3, 1923–1937, BAHT 1466/445a Urewera Country, NA Auckland; cited in Campbell, p 23

187. Under-Secretary for Lands to Minister of Lands, 24 February 1936, F1 8/2/5, Urewera Country, vol 3, 1923–1937, BAHT 1466/445a Urewera Country, NA Auckland; cited in Campbell p 26

188. *Ibid*

189. Memorandum from Under-Secretary for Lands and Asst Director of Forestry to Minister of Lands and Commissioner of State Forests, 23 December 1948, Urewera Country: Crown Land and Maori Lands, BAHT1466/547B, NA Auckland

190. Under-Secretary for Lands to Minister of Lands, 24 February, 1936, F1 8/2/5 Urewera County, Vol 3 1923–1937, NA Wellington; cited in Campbell, p 26

policies had been to wrest control of the forests from their ancestral iwi, in order to protect the forests' ecology.¹⁹¹ Urewera National Park was the consequence of that imperative. Both that study and a more recent report on Urewera National Park for the Crown Forestry Rental Trust¹⁹² concluded that Te Urewera iwi have been very considerably disadvantaged by the national park from the beginning of the Crown actions that led to it being created from their whenua, and have been insufficiently included in the park's management. Both studies have suggested that the situation is one that needs repair.

The need for the Crown to negotiate carefully and constructively with Te Urewera iwi, and the prospect of cooperation in preserving the scenery and indigenous flora and fauna, were identified by officials when the Crown first surveyed Te Urewera forest lands in the 1930s. Te Urewera iwi were, to some degree, consulted. They have continued to express their intimate, dependent connection to Te Urewera. But the means by which the Crown asserted control and did not allow them any expression of that connection, other than as a historical phenomenon, led to grievances that continue today. The Crown's preclusion of any expression of Tuhoe rangatiratanga over Urewera National Park is at the core of the dissonant relationship that persists in Te Urewera.¹⁹³

This overview has revealed a few instances in the Crown record where Te Urewera's iwi expressed approval of an Urewera National Park. On many other occasions they expressed implacable opposition, largely on the basis of loss of rangatiratanga. A full understanding is difficult to obtain from the level of historical research that has been undertaken to date. A similar situation applies to the extent to which the Crown consulted and included Te Urewera's iwi when creating Urewera National Park, and to the question of whether their wish to retain rangatiratanga over their indigenous resources was considered or not. More detailed research will be necessary if the Waitangi Tribunal wishes to focus on Urewera National Park as a site of Crown actions concerning the indigenous flora and fauna.

The key areas of Crown actions in this regard can be identified as follows. First, Crown forestry officials propounded in the early 1920s that the Maori-owned Te Urewera lands still in indigenous forest were unsuitable for the settlement schemes that the Department of Lands and Survey and Department of Agriculture were proposing, and were more fitted to be retained as a protective forest. Secondly, the enactment of section 65 of the

191. Evelyn Stokes, J Wherehuia Milroy, Hirini Melbourne, *Te Urewera Nga Iwi Te Whenua Te Ngahere: People, Land and Forests of Te Urewera*, University of Waikato, Hamilton, p36

192. S K L Campbell, *Te Urewera National Park, 1952-75*, report commissioned by the Crown Forestry Rental Trust, Wellington, 1999

193. The 1997 Tuhoe submission (*Te Awa*) on the Department of Conservation's conservation management strategy (see fn 64) is a recent, and forceful, example.

Forests Act 1949 prohibited Te Urewera iwi from dealing privately with indigenous forest lands, where the Crown had indicated its intention to acquire them for preservation purposes. Thirdly, an active phase of Crown control arrived with the 1949 change of government, with respect to national park and scenic values, state forestry and Tuhoe authority over their forest lands.