

Te Korowai o Wainuiārua Historical Account (Draft)

Contents

1. Uenuku, Tamakana, and Tamahaki at 1840 and the Treaty of Waitangi.....	3
Uenuku, Tamakana, and Tamahaki Identity at 1840.....	3
Uenuku	3
Tamakana	3
Tamahaki	3
Te Tiriti o Waitangi/The Treaty of Waitangi	4
2. Uenuku, Tamakana, and Tamahaki and the Colonial State 1840-1860	4
The New Zealand Company	4
The Spain Commission	5
Crown Purchasing Negotiations	6
Conflict Halts Negotiations	6
Crown Completes the Purchase	7
Whanganui Block Reserves.....	7
3. Uenuku, Tamahaki, and Tamakana and the New Zealand Wars 1860-1872.....	8
The Establishment of the Kīngitanga.....	8
The Taranaki and Waikato Wars	8
Warfare Spreads to Whanganui	9
The Battles at Ōhoutahi and Pipiriki Pā.....	10
The End of the New Zealand Wars	11
4. The Native Land Laws	12
The Introduction of the Native Land Laws	12
Pre-Native Land Court Title Determination Payments	13
5. Kemp’s Trust and Uenuku, Tamakana, and Tamahaki	15
6. Te Rohe Pōtae and Te Ōhāki Tapu	17
The Aotea Block.....	20
7. The Operation of the Native Land Court	21
8. Nineteenth Century Crown Purchasing.....	23
9. The Taumatamāhoe Block.....	24
10. The Waimarino Block in the Native Land Court.....	27
The Native Land Court’s Title Determination of the Waimarino Block.....	27

11. The Waimarino Block Purchase	29
The Non-Seller Blocks	31
12. The Waimarino Block Seller Reserves	32
Te Korowai o Wainuiārua Protest Over the Location of the Reserves	33
Tieke	34
13. Waimarino No.4 Non-Seller Block	36
14. Public Works	39
North Island Main Trunk Railway	Error! Bookmark not defined.
Defence Taking	Error! Bookmark not defined.
15. Twentieth Century Crown Purchasing	39
16. The Tongariro National Park	40
Clashing Native Land Court Hearings.....	42
Western Ruapehu including in the Tongariro National Park.....	43
Protest and Petition.....	44
Crown Develops Policy for the Park	45
Management of the Tongariro National Park.....	47
17. 16. The Aotea District Maori Land Board and Vested Lands.....	48
18. The Whanganui River Scenic Reserves.....	51
Te Korowai o Wainuiārua and the Whanganui River	51
Scenic Reserves.....	51
19. The Whanganui River Cases and the Tongariro Power Development Scheme	55
The Whanganui River Case and Te Korowai o Wainuiārua	55
The Tongariro Power Development Scheme.....	57
20. The Whanganui National Park.....	57
Socio-Economic Consequences	62
Te Reo Māori	62
Health	63
Economic Development.....	63
Housing	64
Contribution to New Zealand	64

1. Uenuku, Tamakana, and Tamahaki at 1840 and the Treaty of Waitangi

Uenuku, Tamakana, and Tamahaki Identity at 1840

- 1.1. The three principal iwi of Te Korowai o Wainuiārua, Uenuku, Tamakana, and Tamahaki, resided in their central Whanganui rohe when the Crown came to the district in 1840. They consider themselves to have distinct tribal identities, though they are closely connected in their whakapapa and history.

Uenuku

- 1.2. The principal tupuna of Uenuku, named Uenuku, connects the iwi to many of their neighbouring iwi and hapū through whakapapa.¹ At 1840, the iwi Uenuku resided in the Manganui-a-te-ao Valley and the Mākōtuku Valley, as well as the Waimarino plains.² Their kāinga in this area are called Waikurekure, Papatupu and others.³ In the decades prior to 1840, Uenuku also moved into settlements on the Whanganui River called Pipiriki, Autumutu and others.⁴

Tamakana

- 1.3. Tamakana, the tupuna, and his iwi had settled in the Manganui-a-te-ao Valley with Uenuku and their other whānaunga.⁵ The rohe of Tamakana stretches from Taurewa near Tongariro maunga to the Waimarino plains.⁶
- 1.4. The descendants of Tamakana who led the iwi in the nineteenth century include Tūkaia II, Te Pikikōtuku, Te Whetū Kākahi and his son Winiata Te Kākahi, Te Wharerangi and his son Matuaahu Te Wharerangi, Te Rangihuatau, Kaioroto, Te Riaki, Uenuku Tūwharetoa and his son Taurerewa Tūwharetoa, Te Hītaua and his son Te Pēhi Tūroa I, and Hekeāwai.⁷

Tamahaki

- 1.5. Tamahaki, the tupuna of the Tamahaki iwi, was a descendant of Ruatipua and Paerangi, original tangata whenua of the district.⁸ The nineteenth century rangatira, Uenuku Tūwharetoa, Taiwiri Toho and Te Rangihuatau, can trace descent from Tamahaki.⁹ The Tamahaki rohe is primarily on the western side of the middle reaches

¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.76

² Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.76

³ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.76

⁴ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.77

⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.73

⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.74

⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), pp.74, 76

⁸ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.77

⁹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), pp.77-78; Hemara, W. and CCCT Stream Researchers (2008) *Central Claims Charitable Trust: Oral and Traditional History Report* (Wai 903 A152) p.184

of the Whanganui River.¹⁰ Tamahaki and its associated hapū lived in settlements along the Whanganui River, including Pīpīriki, Tieke, Mangapāpapa, and Kirikiriroa.¹¹

Te Tiriti o Waitangi/The Treaty of Waitangi

- 1.6. Te Korowai o Wainuiārua had little contact with Europeans before the signing of te Tiriti o Waitangi/the Treaty of Waitangi in their remote inland rohe. When a Church Missionary Society missionary visited Whanganui in May 1840 with a copy of te Tiriti/the Treaty, he did not travel inland to the rohe of Uenuku, Tamakana, or Tamahaki.
- 1.7. On 23 May, nine Whanganui rangatira signed te Tiriti/the Treaty at the mouth of the Whanganui River.¹² One of the signatories was the high-ranking rangatira Te Pēhi Tūroa I of Te Patutokotoko. On 25 May, his son, Te Pēhi Pākoro Tūroa II, signed the same copy of te Tiriti/the Treaty in Waikanae along with four other Māori.¹³ The iwi of Te Korowai o Wainuiārua consider that the signing of te Tiriti/the Treaty created an expectation of a relationship that should have been based upon fairness, justice, and honour.¹⁴

2. Uenuku, Tamakana, and Tamahaki and the Colonial State 1840-1860

The New Zealand Company

- 2.1. Iwi and hapū from the middle and upper reaches of the Whanganui River, including iwi of Te Korowai o Wainuiārua, utilised the mouth of the river for fishing and trade, often for months at a time.¹⁵
- 2.2. In 1839, an independent British settlement company, the New Zealand Company, sent an agent to New Zealand to negotiate the purchase of land from Māori before the arrival of the Crown.¹⁶ The Company prepared a land purchase deed for over a million acres of Whanganui land from the coast to Tongariro maunga.¹⁷ Two Te Korowai o Wainuiārua tūpuna, Te Rangiwhakarurua and his son Te Kurukaanga, were living near Waikanae in November 1839 and signed the deed aboard a Company ship anchored off the Kāpiti coast.¹⁸

¹⁰ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.78

¹¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.79

¹² Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.130

¹³ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.131

¹⁴ Counsel for Uenuku (2009) *Closing Submissions for and on Behalf of Those Embraced by Uenuku and Their Constituent Hapu and Whanau* (Wai 903, 3.3.108), p.7

¹⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903) pp.250, 284.

¹⁶ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.126

¹⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.126

¹⁸ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.126

- 2.3. In March 1840, Te Kurukaanga accompanied the Company agent to Pūtiki.¹⁹ At a hui of 300-400, the Company agent gave gifts to Te Pēhi Tūroa I of Te Patutokotoko and two other leading rangatira, though it was not intended as payment for the land.²⁰ Te Patutokotoko coalesced in the early nineteenth century around the leadership of Te Pēhi Tūroa I, and drew support from several locations along the river.²¹
- 2.4. In May, after te Tiriti/the Treaty had been signed, the Company called a large hui at Pākaitore to discuss the 1839 deed and secured the signatures of 32 Whanganui Māori.²² By September, Whanganui Māori had built thirty houses in preparation for the arrival of the settlers and Te Kurukaanga built a house for the Company agent.²³ The settlers first arrived at the beginning of 1841.²⁴ The Company called their settlement Petre.²⁵ However, the Company's attempt to survey the land it had attempted to purchase was obstructed by Māori who were not involved in the Company's negotiations.²⁶

The Spain Commission

- 2.5. In January 1840, Governor Hobson proclaimed all private purchases after this date would be considered null and void.²⁷ In 1841, the Governor established an old land claims commission to investigate the validity of pre-Treaty transactions.²⁸ In 1843, Commissioner William Spain held hearings to investigate the Company's attempted purchase of Whanganui land.²⁹
- 2.6. Te Korowai o Wainuiārua tūpuna took part in the hearings, though Te Kurukaanga was not present.³⁰ Te Pēhi Tūroa I gave evidence, stating that, by signing the deed, he expected to be paid.³¹ However, he said that payment went to others and not himself.³² Ngāpara, also of Te Patutokotoko, stated that the deed had not been explained to him when he signed it in May 1840.³³ He also stated that most people opposed the purchase due to the insufficiency of the payment.³⁴ Spain quickly found that there were serious flaws in the Company's putative purchase.

¹⁹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.127; Macky, M. (2006), *Whanganui Land and Politics, 1840-1865*, (Wai 903, A100), p.16

²⁰ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.127

²¹ Waitangi Tribunal *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), pp.64, 80.

²² Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.129

²³ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.169

²⁴ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.170

²⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.171

²⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), pp.175-177

²⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.164; [Proclamation, 13 January 1840](https://www.flickr.com/photos/archivesnz/16035758631) <https://www.flickr.com/photos/archivesnz/16035758631>

²⁸ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.173

²⁹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.180

³⁰ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.182

³¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.181

³² Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.181

³³ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.181

³⁴ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.181

- 2.7. In September 1843, Spain stated in an interim report that the Company had failed to prove it had purchased the land it claimed.³⁵ However, he also considered that many Whanganui Māori wanted the settlers to stay in the small township they had established.³⁶ Spain thought the Company should pay an additional £1,000 to the Crown for a Crown grant of 40,000 acres around the settlement of Petre, otherwise called Wanganui, and announced this as an award to Whanganui Māori in 1844.³⁷ In March 1845, Spain finalised this recommendation to the Crown.³⁸ Governor Fitzroy, however, did not approve the recommendation and urged the settlers to leave Petre.³⁹

Crown Purchasing Negotiations

- 2.8. Governor Grey replaced Governor Fitzroy and arrived in New Zealand in November 1845 with instructions to complete the purchases on behalf of the Company.⁴⁰ Grey went to Petre in March 1846 to assess the willingness of leading rangatira to complete the purchase as Spain had recommended.⁴¹ Te Pēhi Tūroa, Ngāpara, and others affirmed that they were willing.⁴²
- 2.9. The next month, Crown purchase agents were sent to Whanganui to complete the purchase. Spain's report had included a map of the Company's claimed land (89,600 acres) which included a line around the 40,000 acres Spain recommended for the purchase.⁴³ The Crown began surveying the 89,600-acre block, as opposed to the agreed 40,000 acres and did not inform Whanganui Māori of the difference.⁴⁴

Conflict Halts Negotiations

- 2.10. Whanganui Māori negotiated with the officials to finalise the boundaries and reserves.⁴⁵ However, the purchasing was stalled when fighting broke out in Heretaunga between the Crown and upriver Whanganui Māori in June 1846.⁴⁶ Te Pēhi Pākoro Tūroa advised the local missionary that he intended to live in peace with Pākehā and that his brother, Tāhana Tūroa, had gone to attempt to persuade Whanganui Māori in Heretaunga to return to Whanganui.⁴⁷

³⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.183

³⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.183

³⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume One (Wai 903), p.186; Macky, M. (2006), *Whanganui Land and Politics, 1840-1865*, (Wai 903, A100), pp.113-114

³⁸ Reports by commissioner of land claims on titles to land in New Zealand, No.4 (Petre (Wanganui)), Spain to Governor, 31 March 1845, BPP, 1846, vol.30 [203], p.82 (IUP, vol 5, p.90) in Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.188; Macky, M. (2006) *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.113-114

³⁹ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.121

⁴⁰ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.189

⁴¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.190

⁴² Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.190

⁴³ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.191

⁴⁴ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.190

⁴⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.193

⁴⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.193

⁴⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.193

- 2.11. In July, after receiving a copy of a letter to Whanganui Māori seeking support for the fighting in Heretaunga, Grey proclaimed martial law over the Whanganui district.⁴⁸ After the fighting had ended in Heretaunga, an upriver tauā came to Petre in October and the threat felt by the settlers led the Crown to station 180 troops in the township.⁴⁹ In April 1847, following an incident where a group of Māori youths were executed for the murder of four settlers, martial law over Whanganui was extended.⁵⁰ The next month, another upriver tauā arrived in Petre and there was several months of skirmishing.⁵¹ The biggest fight was at St John's Wood in July, but the conflict produced a stalemate and the tauā withdrew upriver.⁵²

Crown Completes the Purchase

- 2.12. By February 1848, peace had been reached between the parties, though the situation remained tense and the Crown kept its troops garrisoned in the township.⁵³ In May, the Crown sought to recommence its purchase negotiations for the Whanganui block.⁵⁴ At a hui on 25 May of around 600 Whanganui Māori, 80 people signed the Crown's purchase deed and 126 others signed the following day.⁵⁵ The additional purchase money of £1,000 was divided among fifteen hapū.⁵⁶ Tāhana Tūroa received £50 on behalf of Te Patutokotoko.⁵⁷ The Crown still did not inform the owners that the £1,000 was for just over 86,000 acres and continued to represent the purchase as the completion of Spain's recommended 40,000 acre purchase.⁵⁸

Whanganui Block Reserves

- 2.13. In the original Company deed, it stated that a portion of the land sold would be reserved which was sufficient for the "residence and proper maintenance of the said chiefs and their families".⁵⁹ In 1843, the Crown took responsibility for reserving land from the purchase.⁶⁰ In 1845, Spain recommended to the Crown that 4,000 acres (a tenth of the recommended Whanganui purchase) in addition to pā, urupā, and cultivations be reserved for Māori.⁶¹ However, in the following year, Governor Grey instructed his purchase agents to induce Māori to abandon any cultivations the agents did not think they needed and would "interfere with the pursuits and prosperity of

⁴⁸ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, Volume One (Wai 903), p.204

⁴⁹ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), pp.207-209

⁵⁰ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.218

⁵¹ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.246

⁵² Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.246

⁵³ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), pp.223, 231

⁵⁴ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p. 229

⁵⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, pp.234, 248

⁵⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.235

⁵⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.236

⁵⁸ Macky, M. (2006) *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.315

⁵⁹ Deed of Sale to the New Zealand Company, OLC 1, Box 47, 909, ANZ(W) in Macky, M. (2006) *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.26; Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.257

⁶⁰ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.258

⁶¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, pp.258-259

the settlers”.⁶² In 1848, Te Patutokotoko were allocated a reserve called Waipākura of 2,358 acres.⁶³

3. Uenuku, Tamahaki, and Tamakana and the New Zealand Wars 1860-1872

The Establishment of the Kīngitanga

- 3.1. Traditionally, the iwi of Te Korowai o Wainuiārua used rūnanga and hui to resolve the challenges they faced.⁶⁴ Their strategies evolved following 1848 to engage with their new Treaty partner.⁶⁵ Over the 1850s and 1860s, rangatira of Te Korowai o Wainuiārua and Whanganui increasingly sought to work together on issues they all faced.⁶⁶ From the late 1850s, rūnanga became larger and more formal and were often called rūnanganui.⁶⁷
- 3.2. In 1856, some Whanganui Māori attended a rūnanganui at Pūkawa where they discussed the establishment of a Māori king.⁶⁸ The Kīngitanga movement, as it came to be called, was intended to transcend tribal rivalries through the creation of a national Māori organisation to administer their own affairs within their boundaries.⁶⁹ At the Pūkawa hui, it was agreed that a ‘rohe tapu’, later called Te Rohe Pōtae, around Tongariro maunga would be established, within which no land would be sold.⁷⁰ In 1857, Tōpia Tūroa (among others) had declined the offer of kingship and Pōtatau Te Wherowhero was selected to be the first Māori King.⁷¹ In 1858, Tōpia Tūroa championed the Kīngitanga in the Whanganui district and support spread quickly among Te Korowai o Wainuiārua iwi.⁷²

The Taranaki and Waikato Wars

- 3.3. In 1860, fighting broke out when the Crown attacked Te Kōhia pā in Taranaki to enforce the Waitara purchase.⁷³ The iwi of Te Korowai o Wainuiārua decided not to be involved.⁷⁴ In March 1860, Te Korowai o Wainuiārua iwi participated in a large and significant hui at Kōkako, south of Ruapehu maunga, to discuss inter-tribal boundaries, land selling, and the Kīngitanga.⁷⁵ Soon after, Kīngitanga supporters established an

⁶² Grey to Symonds, 17 April 1846, Further Correspondence Relative to New Zealand, British Parliamentary Papers

(1846-47) vol. 5, p. 550 in Macky, M. (2006) *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.159; Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, p.259

⁶³ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, pp.264-265

⁶⁴ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.291

⁶⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.293

⁶⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.293

⁶⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.294

⁶⁸ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, pp. 303-4; [Tūhoe Deed of Settlement of Historical Claims](#) (2013), para. 2.10; Grace (1959) *Tūwharetoa: a History of the Māori People in the Taupō District* (Wai 1200, A047), p. 444

⁶⁹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), pp.303, 305

⁷⁰ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, Volume One, p.305

⁷¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, Volume One, pp.304-305

⁷² Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.307

⁷³ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.309

⁷⁴ Stirling, B. (2004) *Whanganui Māori and the Crown: 1840-1865* (Wai 903, A65), pp.708-709

⁷⁵ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), pp.294-295

aukati (boundary) at Maraekōwhai on the Whanganui River near its confluence with the Ohura River, and much of the Te Korowai o Wainuiārua rohe lay north of this line.⁷⁶ The aukati was a designation of Māori customary land which could not be entered without the approval of the King.⁷⁷ In 1861, the Crown and Kīngitanga agreed to a truce in Taranaki.⁷⁸

- 3.4. In 1862, Te Ua Haumēne of the Taranaki Kīngitanga founded a faith called the Pai Mārire, which translates as 'good and peaceful'.⁷⁹ The Kīngitanga adopted elements of this faith and Pai Mārire later became its religion.⁸⁰ Its adherents sought control over their religion and land and to reject European religious authority.⁸¹
- 3.5. In 1863, following the Crown's reoccupation of the Omata and Tataraimaka blocks,⁸² fighting in Taranaki erupted for a second time and, on this occasion, Tāhana Tūroa and other Whanganui Māori joined the conflict against the Crown.⁸³ In June, Hōri Pātene, an influential and popular rangatira of Pipiriki, was killed in the fighting at the battle of Katikara in Taranaki.⁸⁴ In October, Te Pēhi Tūroa raised a force and joined Taranaki Māori in part due to their need to seek utu for the death of Hōri Pātene.⁸⁵ The Whanganui tauā fought in Taranaki until they ran out of supplies and returned home in early 1864.⁸⁶
- 3.6. Meanwhile in July 1863, the Crown's forces had crossed the northern boundary of Te Rohe Pōtae at the Mangatāwhiri River and therefore began the Waikato War. The tūpuna of Te Korowai o Wainuiārua were not involved in this conflict.

Warfare Spreads to Whanganui

- 3.7. In January 1864, the Crown issued a declaration in Whanganui that 'rebels' must swear their allegiance to Queen Victoria. They risked being arrested if they had fought against the Crown.⁸⁷ No Whanganui Kīngitanga swore allegiance to the Queen, although, in April, Te Pēhi Tūroa indicated that he would not fight again unless attacked in his upriver home.⁸⁸

⁷⁶ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.310

⁷⁷ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.310; Marr, C. (2011), *Te Rohe Potae Political Engagement 1864-1886* (Wai 898, A78), pp.134-135

⁷⁸ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.378-379

⁷⁹ Young, D. (1998), *Woven by Water: Histories from the Whanganui River*, p.57

⁸⁰ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.325; R. T. Mahuta, 'Tāwhiao, Tūkāroto Matutaera Pōtatau Te Wherowhero', *Dictionary of New Zealand Biography*, first published in 1993, updated July, 2011. Te Ara - the Encyclopedia of New Zealand, <https://teara.govt.nz/en/biographies/2t14/tawhiao-tukaroto-matutaera-potatau-te-herowhero> (accessed 14 January 2022)

⁸¹ Young, D. (1998), *Woven by Water: Histories from the Whanganui River*, p.57

⁸² Stirling, B. (2004) *Whanganui Māori and the Crown: 1840-1865* (Wai 903, A65), p.761

⁸³ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.320

⁸⁴ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.320

⁸⁵ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.321

⁸⁶ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.321

⁸⁷ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.397-398

⁸⁸ Wanganui Chronicle, 2 April 1864, in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.398

- 3.8. By April, the Pai Mārire became involved in the Taranaki War and quickly gained a reputation among Europeans and the Crown for violence.⁸⁹ Later that month, Mātene Rangitauira returned to the Whanganui district from the Taranaki War.⁹⁰ He had become a disciple of Pai Mārire and sought to convert Whanganui Māori to the faith.⁹¹ When he visited his home in Pipiriki, he found many eager converts who were still mourning the death of Hōri Pātene.⁹²
- 3.9. In May, Mātene Rangitauira began to lead a force of 120-150 Pai Mārire Māori down the Whanganui River to attack the township at the mouth of the River.⁹³ He met with Te Pēhi Tūroa in Pipiriki where Te Pēhi Tūroa stated that no war party should proceed down the River and break the peace in the district.⁹⁴ Mātene Rangitauira disregarded this and continued his journey downriver. In response, Te Pēhi Tūroa sought lower-river Māori support to stop the tauā from reaching the township.⁹⁵ Thirty-four Kīngitanga and 300 lower-river Māori met the Pai Mārire at Moutoa Island near Ranana on 14 May.⁹⁶ The battle was short, though around 65 men were killed in total, including Mātene Rangitauira.⁹⁷ Following their victory at Moutoa Island, the Kīngitanga and lower-river force moved on to take over three pā formerly held by Mātene Rangitauira and took around 40 Pai Mārire as prisoners.⁹⁸

The Battles at Ōhoutahi and Pipiriki Pā

- 3.10. In the aftermath of the battle at Moutoa, the Crown began fortifying the pā of its Whanganui Māori allies from the end of May and provided them with arms.⁹⁹ There remained great tension in the district for the remainder of 1864 and Kīngitanga Māori increasingly converted to Pai Mārire. In June, Tāhana Tūroa warned those supporting the Crown that there would be a battle with the Kīngitanga at Hiruharama, though it never eventuated.¹⁰⁰ On 2 November, the Governor proposed a cessation of hostilities whereby those who took an oath of allegiance would be provided with an amnesty.¹⁰¹

⁸⁹ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.324

⁹⁰ Young, D. (1998), *Woven by Water: Histories from the Whanganui River*, p.57; Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.325

⁹¹ Young, D. (1998), *Woven by Water: Histories from the Whanganui River*, p.57; Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.325

⁹² Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.325

⁹³ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.402; Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), pp.326-327

⁹⁴ Statement of Koroneho Karipa, May 1864, AD 1/1864/2394, ANZ(W) in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.399

⁹⁵ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.399-400; Statement of Koroneho Karipa, 19 May 1864, Resident Magistrate's Letterbook, JC-WG, 1, 5, p. 45, ANZ(W) in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.401

⁹⁶ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.328-329

⁹⁷ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.329

⁹⁸ Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.329

⁹⁹ White to Booth, 30 May 1864, MS-Papers-0075-14, ATL, in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.406

¹⁰⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume One, p.332; Stirling, B. (2005) *Supporting Documents to the Evidence of Bruce Stirling 'Whanganui Māori and the Crown: 1840-1865', Volume 10* (Wai 903, A65(m)), pp.5332-5334

¹⁰¹ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.407

However, they would also have to agree to cede land to the Crown.¹⁰² The Kīngitanga refused to accept these terms, stating that they would only agree to peace if they could retain their King and their own laws.¹⁰³

3.11. Later in November, Te Pēhi Tūroa led the Kīngitanga to fortify the Ōhoutahi pā.¹⁰⁴ In January 1865, the Crown dispatched a force of 400 of its Whanganui Māori allies up the Whanganui River to within one mile of Ōhoutahi.¹⁰⁵ On 24 February, the Crown's allies attacked and captured the Ōhoutahi pā. Twenty-seven of the Kīngitanga were killed.¹⁰⁶ Members of the Tūroa whānau were among the 100 Kīngitanga taken prisoner.¹⁰⁷ In March, Te Pēhi Tūroa travelled to the Whanganui township and swore an oath of allegiance to the Crown.¹⁰⁸ Tōpia Tūroa, however, refused to swear the oath of allegiance.¹⁰⁹ Tōpia was given 24 hours to get away and the Crown offered a £1,000 reward for his apprehension.¹¹⁰ None of the other Te Korowai o Wainuiārua Kīngitanga agreed to submit to the Governor.¹¹¹

3.12. By the end of March, the Crown had decided that it would seize the Pipiriki pā. It sent a force of 200 Crown soldiers and constructed four stockades.¹¹² In July, the Crown received intelligence that the Kīngitanga would attack them at Pipiriki.¹¹³ There was no sustained assault on the pā, though Crown forces skirmished with Kīngitanga forces over twelve days.¹¹⁴ Again Te Pēhi Tūroa fought for the Kīngitanga in this conflict, though he had sworn his allegiance to the Crown in March.¹¹⁵

The End of the New Zealand Wars

3.13. In September the Governor issued a proclamation of peace.¹¹⁶ The Crown pardoned all those who had fought against it, aside from Te Pēhi Tūroa and those it accused of

¹⁰² Wanganui Chronicle, 2 November 1864 in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.407

¹⁰³ Wanganui Chronicle, 5 November 1864 in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.407

¹⁰⁴ AJHR, 1865, E-4, *Further Papers Relative to the Spread of the Hau Hau Superstition Among the Maories*, p.36; Stirling, B. (2005), *Whanganui Māori and the Crown: 1840-1865* (Wai 903, A065), p.797; Waitangi Tribunal (2015), *He Whiritaunoka: The Whanganui Land Report*, Volume One (Wai 903), p.331

¹⁰⁵ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.410

¹⁰⁶ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.412

¹⁰⁷ Stirling, B. (2005), *Whanganui Māori and the Crown: 1840-1865* (Wai 903, A065), p.800; Church, I. 'Turoa, Topia Peehi', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, Available at: <http://www.TeAra.govt.nz/en/biographies/2t55/turoa-topia-peehi> Accessed 21 April 2019; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, Vol.1, p.333; Booth to White, 23 February 1865, MS-Papers-0075-15, ATL; R. Taylor Journal vol. 12, 25 February 1865, p.151, qms 1996, ATL, in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.412

¹⁰⁸ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.412-413

¹⁰⁹ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.413

¹¹⁰ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.413-414

¹¹¹ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.415

¹¹² Grey to Cameron, 22 March 1865, AJI-IR (1865), A-4, p. 19 in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), pp.415-416

¹¹³ Hireti Haimona to Haimona Hiroti and Te Poihipi, 14 July 1865, AJHR (1865), A-7, p. 6 in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.415

¹¹⁴ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, Volume One (Wai 903), p.336; Mete Kingi Paetaha to Grey, 3 August 1865, AJHR (1865) A-7, p.9, in Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.416; Belich, J. (1998), *The New Zealand Wars and the Victorian interpretation of racial conflict*, p.207

¹¹⁵ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.417

¹¹⁶ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.418

certain murders.¹¹⁷ In 1865, the Crown utilised the provisions of the 1863 Suppression of Rebellion Act and the New Zealand Settlements Act to confiscate a large area of land in Taranaki.¹¹⁸

- 3.14. The Crown's exclusion of Te Pēhi Tūroa from the pardon meant there could be no formal peace in Whanganui. In 1869, though, Hona, a relative of Tōpia Tūroa, was killed by a force led by Te Kooti Arikirangi Te Turuki who the Crown had been pursuing across the North Island.¹¹⁹ In September, a priest or 'Papa' of Tōpia was also killed near Lake Rotoaira.¹²⁰ These events led Tōpia to join other Whanganui Māori who participated in the pursuit of Te Kooti into upper Whanganui and beyond the aukati of Te Rohe Pōtae.¹²¹ However, once Te Kooti was within Te Rohe Pōtae, the Whanganui tauā ended their pursuit.¹²²
- 3.15. Between January 1871 and April 1872, Whanganui iwi, including those of Te Korowai o Wainuiārua, held three large hui to discuss the peace and unity of Whanganui Māori from the source of the Whanganui River to its mouth.¹²³ Peace in Whanganui was confirmed at an 1872 hui in Putiki.¹²⁴

4. The Native Land Laws

The Introduction of the Native Land Laws

- 4.1. In the 1860s, the Crown introduced native land legislation. One of its objectives was to facilitate the opening-up of Māori customary lands to Pākehā settlement. The Crown established the Native Land Court through the Native Land Acts of 1862 and 1865 without consulting Māori or gaining their consent.¹²⁵ A principle function of the Native Land Court was to investigate customary titles to land.¹²⁶ Following such investigation, persons found by the Court to be owners could apply to the Governor for a Crown grant.¹²⁷ The Māori land title system established in the 1860s was subsequently altered by later amendments and other statutes. The Native Land Act 1873 introduced memorials of ownership which required all customary owners to be listed on the Court certificate.¹²⁸

¹¹⁷ Macky, M. (2006), *Whanganui Land and Politics, 1840-1865* (Wai 903, A100), p.418

¹¹⁸ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, Volume One (Wai 903), p.336

¹¹⁹ Binney, J. (2012) *Redemption Songs: A Life of Te Kooti Arikirangi Te Turuki*, second edition, p.185

¹²⁰ Binney, J. (2012) *Redemption Songs: A Life of Te Kooti Arikirangi Te Turuki*, second edition, p.185

¹²¹ Belich, J. (1986) *The New Zealand Wars and the Victorian interpretation of racial conflict*, p.283

¹²² Belich, J. (1986) *The New Zealand Wars and the Victorian interpretation of racial conflict*, p.283

¹²³ Woon to Under Secretary, 23 April 1872, AJHR, F-3A, p.3

¹²⁴ Woon to Under Secretary, 23 April 1872, AJHR, F-3A, p.3

¹²⁵ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, pp.379, 425

¹²⁶ Native Lands Act 1862, section VII

¹²⁷ Native Lands Act 1862, section IX

¹²⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, p.393

- 4.2. The new native land law system created individual title to Māori land which enabled individuals to alienate Māori land interests without reference to their iwi or hapū.¹²⁹ This introduced a profound change to customary land tenure, and undermined Māori communal ownership of land and collective decision-making.¹³⁰ The owners of Māori customary land were forced to participate in this new system if they were to integrate their land in the modern economy, or to defend their interests in customary land if it was claimed by any other individual.¹³¹ Through the individualisation of land ownership, the Crown expected that Māori would eventually abandon the tribal and communal foundations of their traditional land holdings.¹³²
- 4.3. The first Native Land Court hearing in the southern portion of the Whanganui District took place in 1866.¹³³ The impact of the native land laws on Te Korowai o Wainuiārua was delayed compared to other iwi because their rohe was remote from European settlement. The principle venue of the Native Land Court was the Whanganui township, and so when hapū began taking their land to the Court they were required to travel a considerable distance from their rohe. In 1876, tūpuna of Te Korowai o Wainuiārua applied for a title investigation of the Tawhitoariki block.¹³⁴ The hearing was completed within a day and the Court awarded the land to the applicant and the numerous hapū he represented.¹³⁵ The Crown purchased the entire block by 1879.¹³⁶ In 1880, the tūpuna of Te Korowai o Wainuiārua took the Atuahae, Mangapukatea, and Raoraomouku blocks to the Court after the Crown had advanced payments.¹³⁷ Titles for the block were required to complete the purchase and they were all subsequently sold to the Crown.¹³⁸

Pre-Native Land Court Title Determination Payments

- 4.4. From 1879, the Crown opened negotiations for several relatively small blocks of Te Korowai o Wainuiārua land.¹³⁹ The Crown was keen to purchase land in this area in part because the customary owners were Kīngitanga supporters and had previously been opposed to all Crown land acquisitions.¹⁴⁰ The Crown also sought to secure as large an estate as possible as it was concerned about the activity of private speculators

¹²⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.546

¹³⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, p.375

¹³¹ Macky, M. (2004) *Crown Purchasing in the Central North Island Inquiry District, 1870-1890* (Wai 1200, A81), pp.11-26

¹³² [Ahuriri Hapū and the Trustees of the Mana Ahuriri Trust \[initialled\] Deed of Settlement of Historical Claims \(2015\)](#), para. 2.43

¹³³ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, p.436

¹³⁴ Berghan, P. (2003) *Block Research Narratives of the Whanganui District 1865-2000* (Wai 903, A37), p.940

¹³⁵ Berghan, P. (2003) *Block Research Narratives of the Whanganui District 1865-2000* (Wai 903, A37), p.940

¹³⁶ Berghan, P. (2003) *Block Research Narratives of the Whanganui District 1865-2000* (Wai 903, A37), p.942

¹³⁷ Berghan, P. (2003) *Block Research Narratives of the Whanganui District 1865-2000* (Wai 903, A37), pp. 36 (Atuahae), 238 (Mangapukatea), 821 (Raoraomouku); *New Zealand Gazette*, 20 February 1879, No.20, p.253

¹³⁸ Berghan, P. (2003) *Block Research Narratives of the Whanganui District 1865-2000* (Wai 903, A37), pp. 36 (Atuahae), 238 (Mangapukatea), 821 (Raoraomouku); Innes, C. and Mitchell, J. (2004) *Whanganui and National Park Alienation Study* (Wai 903, A66), pp.9 (Atuahae), 59 (Mangapukatea), 181 (Raoraomouku)

¹³⁹ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.31 (Aratawa), 41 (Huikumu), 235 (Mangapukatea), 820 (Raoraomouku)

¹⁴⁰ 27 Apr 1880, James Booth to R.J. Gill, MA/MLP 1 1880/310 found in MA/MLP 1 1886/134 Nat Arch, in Berghan, P. (2003) *Supporting Papers for Block Research Narratives of the Whanganui District: Vol.XXIV Raoraomouku to Taku* (Wai 903: A37(x)), p.13419

in the area.¹⁴¹ In 1879, the Crown began advancing payments to those who it considered to be owners of the Aratawa Huikumu (1,645ha), Mangapukatea (1,008ha), and Raoraomouku (3,422ha) blocks before any application for title had been made to the Native Land Court.¹⁴²

- 4.5. In the case of these land blocks, the Crown had to estimate the individuals who the Court would later recognise as owners, and the size of the block before the boundaries had been surveyed, which led to difficulties in the Raoraomouku block.¹⁴³ Later in 1879, the Crown instructed purchase agents to refrain from the practice of making pre-title advances.¹⁴⁴
- 4.6. The Crown often operated as a monopoly purchaser. In 1877, the Crown promoted legislation which provided for it to proclaim the prohibition of all private purchases and leases of Māori land once it had made payments to individual owners.¹⁴⁵ In 1879, the Crown issued such a proclamation over the Raoraomouku and Huikumu blocks.¹⁴⁶ The Crown's proclamations of monopoly powers could have a significant impact on the iwi of Te Korowai o Wainuiārua as their only option under such a proclamation was to sell or lease land to the Crown if they wished to alienate it.¹⁴⁷ Subsequent legislation continued to allow the Crown to prohibit alienations to private purchasers in blocks that the Crown had targeted for purchase.
- 4.7. In 1880, the Crown's estimation of the size of the Raoraomouku block proved markedly different from its surveyed acreage. The Crown purchase agent had estimated the block to contain 60,000 acres and had advanced £1120 towards the purchase of this block.¹⁴⁸ However, the 1880 survey of the Raoraomouku block showed that it was only 8,697 acres and the purchase agents were instructed to recover some of the advances from the Te Korowai o Wainuiārua owners.¹⁴⁹
- 4.8. In 1881, following the title determinations for the Aratawa, Huikumu, Mangapukatea, and Raoraomouku blocks, the Crown made further payments to the legally recognised owners and signed purchase deeds.¹⁵⁰ The Crown and the owners appear to have compromised on the purchase price for the Raoraomouku block, as the Crown paid an additional sum of £1500 in December 1881, though not the additional amount of over

¹⁴¹ 27 Apr 1880, James Booth to R.J. Gill, MA/MLP 1 1880/310 found in MA/MLP 1 1886/134 Nat Arch, in Berghan, P. (2003) *Supporting Papers for Block Research Narratives of the Whanganui District: Vol.XXIV Raoraomouku to Taku* (Wai 903: A37(x)), p.13420

¹⁴² Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.31 (Aratawa), 41 (Huikumu), 235 (Mangapukatea), 820 (Raoraomouku)

¹⁴³ Waitangi Tribunal, *He Whiritaunoka: The Whanganui Land Report*, volume one, p.484

¹⁴⁴ Edwards, C. (2006) *Crown Purchasing in the Whanganui Inquiry District, 1865-1900* (Wai 903, A102), p.323; Macky, M. (2004) *Crown Purchasing in the Central North Island Inquiry District, 1870-1890* (Wai 1200, A81), p.82

¹⁴⁵ Native Land Act Amendment Act 1877

¹⁴⁶ *New Zealand Gazette*, No. 73, p.932

¹⁴⁷ Waitangi Tribunal, *He Whiritaunoka: The Whanganui Land Report*, volume one, p.485

¹⁴⁸ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.822-823

¹⁴⁹ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.823

¹⁵⁰ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.32, 42, 238, 823

£2000 that was initially agreed to in 1879.¹⁵¹ The Crown then applied to the Court for an award of its interests in the four blocks and, between September and November 1881, the Court awarded all the 16,605 acres in these four blocks to the Crown.¹⁵²

5. Kemp's Trust and Uenuku, Tamakana, and Tamahaki

- 5.1. In 1880, tūpuna of Te Korowai o Wainuiārua supported the attempt to vest their land in a trust as a way to engage with European settlement in a controlled manner.¹⁵³ Te Keepa Te Rangihwinui (Major Kemp), was a Whanganui Māori rangatira who had become increasingly disillusioned about the ability of Māori to control land alienation and had been involved in a particularly contentious Native Land Court case in the eastern Whanganui district in early 1880.¹⁵⁴ In April, he began promoting the idea of a trust which became known as Kemp's Trust.¹⁵⁵ In May, Te Keepa held hui in the Whanganui district to propose his plan to become the trustee of customary lands within a designated boundary.¹⁵⁶ By 1881, it was estimated that 600-700 Whanganui Māori had signed the trust deed, though support was not universal.¹⁵⁷ Pou were placed to mark the boundaries of the trust lands containing 1.5-2 million acres and one, Kemp's Pole, remains at Raorikia on the Whanganui River.¹⁵⁸
- 5.2. In September 1880, Te Keepa's lawyers outlined the plan for the Trust in a letter to the Native Minister.¹⁵⁹ The Trust was intended to end disputes between groups of owners and between the owners and the Crown by fixing the boundaries of blocks, vesting such blocks in the Trust, ascertaining their ownership, negotiating purchases on behalf of the owners, and distributing the payment.¹⁶⁰ They sought the Crown's support for the Trust.¹⁶¹ In a later letter, the lawyers explained the purpose of the

¹⁵¹ 31 Dec 1881, Minute from Booth to Sheridan, MAIMLP 1 18801515 found in MAIMLP 1 18861134 Nat Arch"

Supporting Papers Vol124, p.13403 in Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.825

¹⁵² Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.31, 41, 239, 821, 824

¹⁵³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.405; Counsel for Tamahaki (2009) *Closing Submissions* (Wai 903, 3.3.85) p.22; Counsel for Wai 1393 claimants (2009) *Closing Submissions for and on Behalf of Geraldine Taurerewa; Rosita Dixon; Sharlene Winiata and Phillip Ponga (Wai 1393)* (Wai 903, 3.3.89), pp.10-12; Counsel for claimants (2009) *Generic Submissions of Counsel: Kemp's Trust* (Wai 903, 3.3.48), p.1

¹⁵⁴ Bayley, N. (2004) *Murimotu and Rangipō-Waiū 1860-2000* (Wai 903, A48), p.60, section 4.1

¹⁵⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.406

¹⁵⁶ *Wanganui Herald*, 31 May 1880 in Macky, M. (2005) *Kemp's Trust* (Wai 903, A73), pp.80-81; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.406

¹⁵⁷ W. Sievwright to *New Zealand Times*, 9 May 1881 in Macky, M. (2005) *Kemp's Trust* (Wai 903, A73), p.81; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.406

¹⁵⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.406

¹⁵⁹ Crown Law Office (2006) *Bundle of Documents Referred to in the Crown Statement of Response Dated 14 August 2006* (Wai 903, 1.3.3(b)), pp.112-113; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.407

¹⁶⁰ Crown Law Office (2006) *Bundle of Documents Referred to in the Crown Statement of Response Dated 14 August 2006* (Wai 903, 1.3.3(b)), pp.113-114; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, pp.407-408

¹⁶¹ Crown Law Office (2006) *Bundle of Documents Referred to in the Crown Statement of Response Dated 14 August 2006* (Wai 903, 1.3.3(b)), p.114; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.408

Trust as a way “to save the Natives if possible from the nefarious and corrupting Land Purchase system”.¹⁶²

- 5.3. The Native Minister wrote to Te Keepa’s lawyers that the Crown would not support Whanganui Māori vesting their land in the Trust.¹⁶³ He explained that much of the land was already subject to the Government Native Land Purchases Act 1877 as the Crown had made advanced payments to some of the owners.¹⁶⁴
- 5.4. At the same time, Te Keepa began establishing a council of 180 people who would have represented each iwi within the Trust’s boundaries.¹⁶⁵ It was intended to carry out work of the Trust and be a kind of self-government which would issue and enforce laws.¹⁶⁶
- 5.5. While the Trust’s supporters had intended to boycott the Native Land Court, they were soon drawn into its proceedings when others made applications for title determinations of blocks within the Trust’s boundaries.¹⁶⁷ On 1 August 1881, the Native Land Court held title determinations for the Huikumu and Umumore blocks.¹⁶⁸ The Crown had made advanced payments on all three blocks prior to their investigations and so all were subject to the Government Native Land Purchases Act 1877.¹⁶⁹ Ultimately the Trust was never able to be formally established because the Crown refused to cooperate with it.¹⁷⁰
- 5.6. Despite this, the Trust attempted to do its intended work for several years.¹⁷¹ By 1882, the Trust established an aukati on its boundaries which could not be crossed without permission.¹⁷² It also actively opposed European expansion into the interior of the district by obstructing surveying work, though Te Keepa remained interested in economic development for Māori benefit.¹⁷³ The Trust’s resistance to alienation caused, in part, a hiatus in Crown purchasing of Te Korowai o Wainuiārua lands between 1881 and 1884.¹⁷⁴ The council had ceased functioning by 1885.¹⁷⁵ The native

¹⁶² Crown Law Office (2006) *Bundle of Documents Referred to in the Crown Statement of Response Dated 14 August 2006* (Wai 903, 1.3.3(b)), pp.121-122

¹⁶³ Letter to Sievwright and Stout, 29 September 1881, MA 13114, ANZ(W) in Macky, M. (2005) *Kemp’s Trust* (Wai 903, A73), p.91

¹⁶⁴ Macky, M. (2005) *Kemp’s Trust* (Wai 903, A73), p.91

¹⁶⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.409; Bargh, B. and Cross, S. (1996) *Rangahaua Whanui District 9: The Whanganui District* (Wai 903, A18), p.54

¹⁶⁶ Macky, M. (2005) *Kemp’s Trust* (Wai 903, A73), p.85; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.409

¹⁶⁷ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.411; Macky, M. (2005) *Kemp’s Trust* (Wai 903, A73), p.102

¹⁶⁸ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.41; Innes, C. (2004) *Whanganui Gap Filling Narratives* (Wai 903, A54), p.96

¹⁶⁹ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.41; Innes, C. (2004) *Whanganui Gap Filling Narratives* (Wai 903, A54), p.96

¹⁷⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.406; Macky, M. (2005) *Kemp’s Trust* (Wai 903, A073), p.125

¹⁷¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.411

¹⁷² Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.412

¹⁷³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.412

¹⁷⁴ Macky, M. (2005) *Kemp’s Trust* (Wai 903, A73), p.108; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.412

¹⁷⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.406; Macky, M. (2005) *Kemp’s Trust* (Wai 903, A073), p.125

land laws did not provide for an effective form of collective title over Māori land until 1894.¹⁷⁶

6. Te Rohe Pōtae and Te Ōhāki Tapu

- 6.1. Following the close of the New Zealand Wars, the Kīngitanga had declared an ‘aukati’ (boundary) which prohibited unauthorised European passage through Te Rohe Pōtae without permission from Kīngitanga leaders.¹⁷⁷ It was widely understood by Māori and Pākehā that Pīpīriki marked the boundary between Crown and Kīngitanga authority.¹⁷⁸ Controlling entry from the south into the Rohe Pōtae was an important responsibility of the Māori communities along the upper Whanganui River.¹⁷⁹ Until negotiations began between officials and representatives of the Kīngitanga in the mid-1880s, the Crown exercised no authority over Te Rohe Pōtae.¹⁸⁰
- 6.2. In the early 1880s, the Crown began construction of the North Island Main Trunk Railway line in the area.¹⁸¹ The Crown anticipated purchasing a large amount of land it would sell to settlers at a profit, and thereby pay for the railway and open the interior of the North Island to European settlement.¹⁸²
- 6.3. By the time the railway line reached Marton from Wellington, and to Te Awamutu from Auckland in the early 1880s, the Crown began to consider pathways through Taranaki and from Hastings to Lake Taupo as options for the railway before settling on a central line that traversed Whanganui to the Waikato.¹⁸³ It quickly became clear to officials that the cooperation of tribes in the land between these points, such as Te Korowai o Wainuiārua, would be required to lift the aukati so that further progress could be made.¹⁸⁴ In 1882, the Crown opened negotiations with Te Rohe Pōtae rangatira who sought Crown recognition and protection of their autonomy before they would agree to the railway proceeding through their lands.¹⁸⁵
- 6.4. In March 1883, the Crown secured informal consent from leaders of a neighbouring iwi for a ‘reconnaissance survey’ to ascertain a possible route for the railway. This

¹⁷⁶ Native Land Court Act 1894, s.14(10), p.315

¹⁷⁷ Wai 898, A078, pp. 91-2

¹⁷⁸ Waitangi Tribunal (2018) *Te mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*, Parts I and II: Pre-Publication Version, (Wai 898), p.636

¹⁷⁹ Waitangi Tribunal (2018) *Te mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*, Parts I and II: Pre-Publication Version, (Wai 898), p.636; “Along the Whanganui River, the situation was complicated by variable support for the Kīngitanga. [...] Thus, in the initial post-war period, Whanganui support for the Kīngitanga authority meant that the aukati extended considerably further south than what was later outlined in the 1883 petition submitted to Parliament by the ‘four tribes’, who included Whanganui” (p. 636).

¹⁸⁰ Waitangi Tribunal (2018) *Te mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*, Parts I and II: Pre-Publication Version, (Wai 898), p. 622

¹⁸¹ Philip Cleaver and Jonathan Sarich (2009), *Turongo: The North Island Main Trunk Railway and the Rohe Potae 1870-2008*, (Wai 898, A20), pp. 23-25

¹⁸² Philip Cleaver and Jonathan Sarich (2009), *Turongo: The North Island Main Trunk Railway and the Rohe Potae 1870-2008*, (Wai 898, A20), p. 24

¹⁸³ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), pp. 16-17; 22

¹⁸⁴ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), pp. 16-17

consent was reached on the condition that the Crown would get further consent from all Te Rohe Pōtae leaders and report back immediately on the route.¹⁸⁶

- 6.5. In June 1883, members from Whanganui iwi joined three other iwi to petition Parliament with an outline of the conditions the Crown would need to fulfil in order for the aukati to be lifted.¹⁸⁷ The boundaries described in the petition encompassed the lands of several different iwi, but the Crown dealt mainly with another iwi from the north.¹⁸⁸ The petition called for the exclusion of Te Rohe Pōtae from the jurisdiction of the Native Land Court, the Crown to make Te Rohe Pōtae land inalienable by sale, and enabling the tribes to develop their own systems to fix the boundaries of land for each Te Rohe Pōtae hapū.¹⁸⁹ The Te Rohe Pōtae block defined in the petition included lands to the east of Ruapehu and south of Taumarunui in the Te Korowai o Wainuiārua rohe.¹⁹⁰ While the Crown agreed to make some adjustments to land procedures that provided additional protections for Māori land, the majority of the petitioners' requests went largely unanswered and Te Rohe Pōtae was not excluded from the jurisdiction of the Native Land Court.¹⁹¹
- 6.6. In December 1883 the five tribes reached agreement for a survey of the external boundary of Te Rohe Pōtae district. Te Pikikotuku signed the agreement on behalf of Whanganui. In January 1884, the Crown began surveying the external boundary.¹⁹²
- 6.7. The Crown had begun its survey of the railway in December 1883.¹⁹³ Te Korowai o Wainuiārua were not, however, all aligned in their views on the Crown's entry through their lands.¹⁹⁴ In January 1884, for example, some residents at Maunganui-o-te-Ao blocked members of the survey party from passing through or escorted them away from their region, while others actively sought to assist surveyors in the hopes of fostering the economic benefit and prosperity officials vaunted.¹⁹⁵ However, continued obstruction from some Māori in the upper Whanganui was only resolved when they left to tend to their crops and surveyors managed to complete their work

¹⁸⁷ R. Anderson, (2004), *Whanganui Iwi and the Crown 1880-1900* (Wai 1130, A30), p.8

¹⁸⁸ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 22, 26

¹⁸⁹ Marr, C. (2011), *Te Rohe Pōtae Political Engagement 1864-1886* (Wai 898, A78), p.871

¹⁹⁰ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 20

¹⁹¹ Waitangi Tribunal (2018) *Te Mana Whatu Ahuru*, p.974

¹⁹² Robinson, Dr. H, and Dr Paul Christoffel (2011) *Aspects of Rohe Pōtae Engagement, 1886-1913* (Wai 898, A071), p. 16

¹⁹³ J. P. Smith, Chief Surveyor to Wahanui, Taonui, and Rewi Maniapoto, 19 December 1883, and Wahanui, Ngahuru Te Ranikawihiria, Taonui, Te Herekikie, Rewi Maniapoto and Te Pikikotuku to Mr Smith, Chief Surveyor, 19 December 1883, in 'Survey of Māori Land in the King Country', in AJHR 1885 G-09, p. 2

¹⁹⁴ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 22

¹⁹⁵ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 23 – description of Te Rahu's daughter supporting the railway survey party, but difficulties encountered in Waimarino, while others removed the surveyors back to Papatupu. On page 24, description of Winiata Te Kakai, Te Kuru Kaanga, Potatu, Te Aurere, Te Pehi Turoa, Iko, and Patena accompanying Rochfort down river to Pipiriki, Hiruharama, Koriniti, Parakino, and Kaiwhaiki, and Rochfort reporting these communities being largely in favour of the railway going through. See also [The New Zealand Railways Magazine, Volume 8, Issue 6, 2 October 1933 In the Hands of a Hostile Tribe](#), for discussion about Te Kuru Kaanga and other residents at Manganui-o-te-Ao rejecting surveyors. Economic benefit: Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 38, 29

through the land that later became the Waimarino block without the consent or permission of Te Korowai o Wainuiārua.¹⁹⁶

- 6.8. Between 1883 and 1885, even though the Crown had yet to secure the consent of Te Rohe Pōtae Māori, it began to act as if the construction of the railway was a foregone conclusion and began to develop legislation and policy to facilitate the process of land acquisition for the railway and settlement.¹⁹⁷ The Native Land Alienation Restriction Act 1884 prohibited private transactions on 4.5 million acres in the general vicinity of the proposed railway.¹⁹⁸ The Railway Authorisation Act 1884 provided for the route of the railway to run through Te Korowai o Wainuiārua lands in the Waimarino and Raetihi blocks.¹⁹⁹ In August 1884, a rangatira of another Te Rohe Pōtae iwi reminded the Crown that consent had only been given for the preliminary survey, and construction remained dependent on the Crown's acceptance of the conditions regarding self-determination outlined in the petition.²⁰⁰
- 6.9. In January 1885, the Crown sent the Native Minister to a hui whose attendees included four or five chiefs from Manganui-o-te-Ao who sought Māori agreement to 'opening up' parts of the North Island, particularly Te Rohe Pōtae and the upper Whanganui area.²⁰¹ In February at a hui in Kihikihi, the Native Minister, John Ballance, emphasised the employment opportunities and long-term economic benefits that roads and railways would bring to Māori communities in the way of settlement, trade and farming.²⁰² But, in the face of the continued opposition by many Whanganui Māori to the Crown's native land regime, he downplayed the extent and nature of the settlement the Crown expected would coincide with the construction of the railway.²⁰³ Ballance made a number of assurances in relation to the railway, which, combined with a series of negotiations and agreements made with Māori since 1883, became known as an agreement that became known as Te Ōhāki Tapu.
- 6.10. A Te Rohe Pōtae rangatira informed the Crown of their agreement to lift the aukati and allow the construction of the railway to proceed in March 1885.²⁰⁴ Te Korowai o Wainuiārua consider that Whanganui Maori were not able to fully participate in Te Ōhāki Tapu and had little option other than to acquiesce to arrangements made between the Crown and other iwi of Te Rohe Pōtae.²⁰⁵ Building on his earlier support

¹⁹⁶ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 25

¹⁹⁸ Waitangi Tribunal (2018) *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims [Pre-Publication Version]*, p. 956

²⁰¹ Anderson, Dr. R. (2004) *Whanganui Iwi and the Crown, 1880-1900* (Wai 898, A038), p. 24; Waitangi Tribunal (2015) *He Whritāunoka*, p. 418

²⁰² C. Marr (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues*, (Wai 903, A60), p. 103.

²⁰³ NZPD, vol. 28, pp. 502-03; Philip Cleaver and Jonathan Sarich (2009), *Turongo: The North Island Main Trunk Railway and the Rohe Potae 1870-2008*, (Wai 898, A20), p. 37.

²⁰⁴ Wahanui to Ballance, March 4 1885, NO 85/968, MA 13 75 43(a), ANZ, in Cleaver, P. and Sarich, J., *Turongo: The North Island Main Trunk Railway and the Rohe potae, 1870-2008: Supporting Papers*, A020(a), pp. 37-38

for the rail survey, a rangatira from another iwi proved instrumental in convincing many Whanganui Māori of the potential benefits of the railway.²⁰⁶ In the face of continuing objections from Whanganui Māori to the 'system of sale' for land for the railway, Crown officials later clarified that compensation, if requested, would be paid but only to the owners as ascertained by the Native Land Court.²⁰⁷

- 6.11. Although the four tribes' petition to the Crown in 1883 sought to exclude the Te Rohe Pōtae from the jurisdiction of the Native Land Court, the Crown had never agreed to this. The involvement of the Native Land Court, therefore, helped to undermine one of the key objectives of the four tribes as outlined in their 1883 petition.²⁰⁸
- 6.12. In 1885 the Crown began construction of the railway through Whanganui lands²⁰⁹, despite the fact the Native Minister had failed to obtain the support of Cabinet or Parliament for some of the promises he had made to Te Rohe Pōtae rangatira.²¹⁰ In 1886, Ballance changed his message to indicate the railway itself constituted payment.²¹¹

The Aotea Block

- 6.13. In the mid-1880s, a number of Māori submitted applications for the determination of title for three vast areas of land around the central north island that included large swathes of Te Rohe Pōtae: the Aotea, Taupōnuiātia, and Waimarino blocks.²¹² For these Māori, the coming of the Native Land Court was now deemed to be inevitable.²¹³
- 6.14. On 23 October 1886, the Court judgment apportioned the majority of the Aotea block between "the five tribes", one of which was described as "Whanganui".²¹⁴
- 6.15. In 1888, the Court began determining the tribal boundaries of the five iwi who collectively owned the block.²¹⁵ In March, Te Rohe Pōtae rangatira provided a list of Whanganui owners to the Court for the southern section of Te Rohe Pōtae which was to be called the Ohura South block.²¹⁶ In August, the Court determined the Ohura South block was an estimated 95,000 acres and had 225 Whanganui owners.²¹⁷ In

²⁰⁶ N. Bayley (2004) Murimotu and Rangipō-Waiū 1860-2000 (Wai 903, A056(a), p.142; C. Marr (2004) The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues, (Wai 903, A60), pp. 123.

²⁰⁷ Cleaver (2004) The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000 (Wai 903, A057), p.189

²⁰⁸ Cleaver (2004) The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000 (Wai 903, A057), pp. 189.

²⁰⁹ Cleaver (2004) The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000 (Wai 903, A057), pp. 184.

²¹⁰ *Te Mana Whatu Ahuru*, p. 1008

²¹¹ Cleaver (2004) The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000 (Wai 903, A057), pp. 189-90

²¹² Copy of Taupōnuiātia application of 31 October 1885 in MA 71/6; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.562; Pickens, K. (2006) *Introduction and Operation of the Native Land Court in the Whanganui Inquiry District 1866-1899* (Wai 903, A83), p.452

²¹³ Waitangi Tribunal (2018) *Te Mana Whatu Ahuru*, p.1184

²¹⁴ Native Land Court (1886) Otorohanga Minute Book, No.1, p.69

²¹⁵ Waitangi Tribunal (2018) *Te mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*, Parts I and II: Pre-Publication Version, (Wai 898), p.1202

²¹⁶ Oliver, S. and Shoebridge, T. (2004) *The Alienation of Maori Land in the Ohura South Block: Part One: c 1886-1901*, (Wai 903, A59), p.41

²¹⁷ Oliver, S. and Shoebridge, T. (2004) *The Alienation of Maori Land in the Ohura South Block: Part One: c 1886-1901*, (Wai 903, A59), p.41

1892, the Ohura South block was partitioned into 20 subdivisions.²¹⁸ While many of the Ohura South block partitions were awarded to the hapū and descendants of tūpuna of other Whanganui iwi, tūpuna of Te Korowai o Wainuiārua were also included.

7. The Operation of the Native Land Court

- 7.1. Once the blocks in the Te Korowai o Wainuiārua rohe began to be investigated by the Native Land Court, title investigations were progressed at a rapid rate. Between 1886 and 1887, some of the largest blocks of most importance to the iwi of Te Korowai o Wainuiārua passed through the Court. This included the Waimarino, Whitianga, Taumatamāhoe, Raetihi, Urewera and the Whakaihuwaka blocks, totalling just over 730,000 acres.²¹⁹ This was the majority of their rohe.²²⁰
- 7.2. Te Korowai o Wainuiārua tūpuna found title determinations expensive. The most significant cost was for surveys. Under the 1865 Act, land had to be surveyed before the Court would issue a certificate of title.²²¹ Later, under the Native Land Court Act 1886, lands had to be surveyed prior to a title determination.²²² The cost of surveying land sometimes led to Te Korowai o Wainuiārua owners alienating further land to repay their debt.²²³ For example, in 1904, the Crown was awarded 1072 acres in the Urewera block to satisfy survey charging orders issued by the Crown.²²⁴
- 7.3. Following the completion of Crown purchasing, it would apply to the Court for a partition of the Crown's and the 'non-sellers' sections.²²⁵ Those who did not sell their land could still be required to contribute to the payment for the survey of their remaining land.²²⁶ This was exacerbated when the Crown applied for numerous partitions to provide for multiple Crown purchases within a single block.²²⁷ For example, between 1889 and 1896 the Crown acquired 7,458 acres of the Raetihi block

²¹⁸ See table in Oliver, S. and Shoebridge, T. (2004) *The Alienation of Maori Land in the Ohura South Block: Part One: c 1886-1901*, (Wai 903: A59), p.70, p.49

²¹⁹ Waimarino, see Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.545; Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp. 678 (Raetihi), 889 (Taumatamāhoe), 1011 (Urewera), 1071 (Whakaihuwaka)

²²⁰ The title of Tawhito Ariki was investigated by the Court in 1876, see Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.940; The title for the Taku block was investigated in 1913, see Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.856; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.439

²²¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.458

²²² Section 18, Native Land Court Act 1886

²²³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.460

²²⁴ Oct 1904, Aotea Land Court MB 521166-168 in Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.1019

²²⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.458

²²⁶ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.458; Waitangi Tribunal (2008) *He Maunga Rongo: Report on Central North Island Claims*, volume two, p.511

²²⁷ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.493; Pickens, K. (2006) *Introduction and Operation of the Native Land Court in the Whanganui Inquiry District 1866-1899* (Wai 903, A83), p.399

through five separate transactions. Each transaction required a partition and its own survey.²²⁸

- 7.4. Surveying in the Te Korowai o Wainuiārua rohe was complicated by its remote and difficult landscape. Surveying errors were not uncommon, such as the misunderstanding in 1886 that Taumatamāhoe and Maraekowhai blocks shared a boundary.²²⁹ There is, however, 26,400 acres of land between the two blocks.²³⁰ In 1894, the Court investigated this piece of land as the Whitianga block.
- 7.5. Other costs borne by the iwi of Te Korowai o Wainuiārua as a result of their participation in the Court included Court fees, the many costs associated with attending the Court in the Whanganui, Otorohanga, and Taupo townships and not being at home to attend to their land.²³¹ Attendance at the Court also caused social and economic disruption for the iwi of Te Korowai o Wainuiārua.²³² Te Korowai o Wainuiārua tūpuna had to travel great distances to attend Court hearings in the townships.²³³ On some occasions, the Court completed title investigations for land in which Te Korowai o Wainuiārua iwi asserted interests in both Taupo and Whanganui within a similar timeframe.²³⁴ The cost of their participation in title determinations was exacerbated by, in some cases, a long stay in the Whanganui township.²³⁵
- 7.6. In the nineteenth century, it was customary for not only the claimants and witnesses to attend the Court hearings, but whole communities of all ages often travelled to support them.²³⁶ In 1880, the iwi of Te Korowai o Wainuiārua travelled the long distance down the Whanganui River by waka to the Whanganui Court for the hearing of the Raoraomouku block which was scheduled to begin on 2 June. Due to a delay in another hearing, the title investigation for the block began on 30 July. By this time, however, six members of the party had died due to their living conditions during their protracted stay in the township.²³⁷ Tautahi Wiremu Pakau wrote to the Crown that:

[W]e have experienced much hardship during the last two months and a half and suffered much loss, our tents having been injured by the wind and the rain, and much food consumed [;] four or five times have supplies of food been brought for our use while here... Besides all this four of our

²²⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, pp.493, 538

²²⁹ R.P Boast (ed) *The Native Land Court: A Historical Study, Cases and Commentary 1888-1909*, volume 2, p.830

²³⁰ R.P Boast (ed) *The Native Land Court: A Historical Study, Cases and Commentary 1888-1909*, volume 2, p.830

²³¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, pp.456-457

²³² Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.462; Crown Law Office (2006) *Final Statement of Response on Behalf of the Crown* (Wai 903, 1.3.3), p.166

²³³ Waitangi Tribunal (2013) *Te Kāhui Maunga: National Park District Inquiry Report*, p. 296; the Native Land Court sat at Ūpokongaro in 1882, and at Pipiriki, Palmerston North, Marton, Turakina, Pātea, Waitōtara, New Plymouth and Ōtorohanga after 1898, see Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, pp.439, 448, 450

²³⁴ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.538, 586-589; Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 367

²³⁵ Crown Law (2009) *Closing Submissions of the Crown, Issue 5: The Native Land Court* (Wai 903, 3.3.129), p.2; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, p.445

²³⁶ Pickens, K. (2009) *Dr Keith Pickens' Written Answers to Tribunal Questions* (Wai 903, A83(f)), p.47

²³⁷ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, p.445

*children and two of our old people have died in consequence of the hardship we have suffered in watching the Court dealing with the lands lest by being absent we should lose our rights.*²³⁸

- 7.7. Another difficulty for Te Korowai o Wainuiārua iwi was the effect of the Court making succession orders. The numbers of owners on Māori land block titles increased as the original owners passed on and their share was then split among successive generations of descendants.²³⁹ This process continued through the generations of owners and the growth of the Māori population in the twentieth century.²⁴⁰

8. Nineteenth Century Crown Purchasing

- 8.1. Following title investigations, very large areas of land were purchased by the Crown from the iwi of Te Korowai o Wainuiārua. These purchases were conducted by means of undivided, individual share-buying by Crown Native Land Purchase officers. As the Crown purchased land from Te Korowai o Wainuiārua individuals without reference to their iwi or hapū, Māori leaders were unable to control the sale of land.²⁴¹ The Crown generally gathered signatories to a purchase deed one by one, and sometimes over many years.²⁴²
- 8.2. In the 1880's and 1890's, the Crown purchased land for the purposes of building the North Island Main Trunk railway and for European settlement in the Whanganui district.²⁴³ The Crown purchased vast tracts of Te Korowai o Wainuiārua land, such as in the Waimarino, Taumatamāhoe, Whitianga, and Raetihi blocks as a monopoly purchaser.²⁴⁴
- 8.3. Land purchase agents generally sought to acquire land as cheaply as possible within the price ranges approved by the Crown.²⁴⁵ In the nineteenth century, owners were unable to ensure they were paid a fair price for their land, especially if it contained valuable resources, because they did not have access to independent valuations or private competitors who may have offered to pay more than the Crown.²⁴⁶ It was not

²³⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume one, p.445; Letter from Tautahi Wiremu Pakau to the Government, 16 August 1880, in Berghan, P. (2003) *Supporting Papers for Block Research Narratives of Whanganui District: Vol.XXIV, Raaraomouku to Taku* (Wai 903, A37(x)), p.13414

²³⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.470

²⁴⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.470; Crown Law Office (2009) *Closing Submissions of the Crown: Breach Issues* (Wai 903, 3.3.130), para.57.2, p.16

²⁴¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.491

²⁴² Edwards, C. (2006) *Crown Purchasing in the Whanganui Inquiry District, 1865-1900* (Wai 903, A102), p.322

²⁴³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.555, 603; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.62

²⁴⁴ Native Land Alienation Restriction Act 1884

²⁴⁵ Hearn, T.J. (2007) 'Creating a Public Estate: Crown land purchasing in the Whanganui Inquiry District, 1865 to 2000' (Wai 903, A110), para.6.23, p.157

²⁴⁶ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, pp.497-498

until 1905 that a requirement was introduced for the Crown to pay at least the value assessed by the Valuation Department.²⁴⁷

- 8.4. The Court had the power to impose a restriction over the alienation of Māori land once its title had been determined.²⁴⁸ However, restrictions on alienation could be removed through a proclamation by the Governor, usually by application of the owners.²⁴⁹ In 1909, all restrictions on alienation were abolished by the Native Land Act 1909.²⁵⁰

9. The Taumatamāhoe Block

- 9.1. The 146,000-acre Taumatamāhoe block is a large area of land containing the Tāngarakau River and Whangamomona River basin in the traditional rohe of Tamahaki.²⁵¹ The land also contains important tracks which provided pathways from the Taranaki coast to the Whanganui River which were used by Whanganui Kīngitanga during the New Zealand Wars.²⁵² The Whanganui River became the block's eastern boundary and it shares a boundary in the west with the Taranaki land confiscated by the Crown in 1865. Following the New Zealand Wars, an aukati was maintained in the upper Whanganui district, including the majority of the land that would be later included in the Taumatamāhoe block.²⁵³ The southern boundary of the aukati on the Whanganui River was at Parinui and the rangatira there was named Taumatamāhoe. It is thought the block was named after him.²⁵⁴
- 9.2. In the late 1870s, the Crown was seeking to purchase as much land as it could in the upper Whanganui region in the hope that the Kīngitanga aukati could be broken down.²⁵⁵ In 1879, the Crown sought to purchase land called Tāngarākau, the southern part of which was later incorporated into the Taumatamāhoe block, and began to make advances of money before the Native Land Court had determined who the owners were.²⁵⁶ Following its advance of payments, the Crown proclaimed a prohibition on private purchasing over the land.²⁵⁷ However, due to disputes over the

²⁴⁷ Maori Land Settlement Act 1905, s.25

²⁴⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.522

²⁴⁹ Native Land Laws Amendment Act 1883, s.16

²⁵⁰ Native Land Act 1909, section 207, p.203

²⁵¹ Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), p.7

²⁵² Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), pp.8, 11

²⁵³ Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), p.12

²⁵⁴ Downes, T. W. (1984) *History of and guide to the Whanganui River*, 71; Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), p.12

²⁵⁵ Walker to Native Minister, 31 January 1879 (Archives New Zealand, Wellington MAMLP

1 1905/03) in Hearn, T.J. (2007) 'Creating a public estate: Crown land purchasing in the Whanganui Inquiry District: 1865 to 2000: Supporting Documents volume four' (Wai 903, A110(d)), p.235; Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), pp.12-13

²⁵⁶ Berghan, P. (2003) *Block Research Narratives of the Whanganui District* (Wai 903, A37), p.889; Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), p.13

²⁵⁷ Hearn, T.J. (2007) 'Creating a public estate: Crown land purchasing in the Whanganui Inquiry District: 1865 to 2000' (Wai 903, A110), p.113

distribution of money and opposition to surveying, the Crown cancelled its purchase but maintained its proclamation.²⁵⁸

- 9.3. In 1886, Te Rangihuatau applied for a title determination of the Taumatamāhoe block on behalf of his hapū, Ngāti Tamahaki.²⁵⁹ On 23 February, the Court completed the title investigation for the block in the Whanganui township.²⁶⁰ Following Te Rangihuatau's evidence of occupation, the Court called for objectors and, as none were present, it made the orders asked for.²⁶¹ Te Rangihuatau submitted a list of 495 names, and the Court admitted 474 descendants of Tamahaki, from various hapū, to the ownership list.²⁶² Less than half of those who received money for the Tāngarākau block were named on the Taumatamāhoe block title.²⁶³ Each of the owners was awarded an equal and undefined interest in the block and their shares would remain this way until the owners had sold their interests or had them partitioned.²⁶⁴
- 9.4. Te Rangihuatau intended the Taumatamāhoe block to be inalienable and requested that the Court restrict the sale of the block until the Court had finalised the subdivisions for hapū.²⁶⁵ On 5 March, the Court imposed a restriction on alienation, except through a single 21-year lease.²⁶⁶ For reasons that are unclear, the Governor removed the restriction in July 1886.²⁶⁷
- 9.5. In February 1889, the Crown began purchasing shares in the Taumatamāhoe block, before any applications for subdivision had been made by the owners and while the owners still held equal shares in the block.²⁶⁸ On 26 February, a large group of owners, including Tōpia Tūroa, protested against the Crown's purchasing activities.²⁶⁹ They

²⁵⁸ Hearn, T.J. (2007) *'Creating a public estate: Crown land purchasing in the Whanganui Inquiry District: 1865 to 2000* (Wai 903, A110), p.113

²⁵⁹ Berghan, P. (2003) *Block Research Narratives of the Whanganui District* (Wai 903, A37), p.891

²⁶⁰ Berghan, P. (2003) *Block Research Narratives of the Whanganui District* (Wai 903, A37), p.891

²⁶¹ Berghan, P. (2003) *Block Research Narratives of the Whanganui District* (Wai 903, A37), p.891

²⁶² Wanganui MB 9, 23 February 1886, pp. 189-190; Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), pp.26-27. Oliver notes however that "in the same year as the Court's decision, 1886, the block was treated as having 472 owners. This may have been due to a duplication of two names in the name lists." (p.27).

²⁶³ Hearn, T.J. (2007) *'Creating a public estate: Crown land purchasing in the Whanganui Inquiry District: 1865 to 2000* (Wai 903, A110), p.114

²⁶⁴ Pickens, K. (2006) *Introduction and Operation of the Native Land Court in the Whanganui Inquiry District 1866-1899* (Wai 903, A83), para.1083, p.401

²⁶⁵ Hearn, T.J. (2007) *'Creating a Public Estate: Crown land purchasing in the Whanganui Inquiry District, 1865 to 2000* (Wai 903, A110), p.115; Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), p.26

²⁶⁶ Transcript, 8 March 1886, Taumatamahoe block order file 1, WH330, Aotea Maori Land Court, in Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), p.26

²⁶⁷ *New Zealand Gazette* (1886) no. 35, p.768; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.523

²⁶⁸ Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), p.26; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.523; Hearn, T.J. (2007) *'Creating a Public Estate: Crown land purchasing in the Whanganui Inquiry District, 1865 to 2000* (Wai 903, A110), p.115.

²⁶⁹ Berghan, P. (2003) *Block Research Narratives of the Whanganui District* (Wai 903, A37), p.894; 26 Feb 1889, Large petition from Topia Turoa and 126 others to Native Minister, MA/MLP, 1889/95 found in MA/MLP, 1905/03 Nat Arch, Supporting Papers, Vol, Doc., pp. 14652-14660.

believed that the restriction on alienation would apply “until the court had subdivided the block to the Hapūs included in the certificate”.²⁷⁰

- 9.6. In March, Te Rangihuatau wrote to the Native Minister on behalf of another group of owners expressing concern that no reserves for sellers had been made in the Taumatamāhoe block and that they had sold enough land to the Crown in the Waimarino block.²⁷¹ He stated that the Taumatamāhoe block was “to be reserved for the benefit of the future Maori race”.²⁷² The Native Minister responded that “each person is entirely at liberty to dispose of his share when he thinks fit. Therefore let those who wish to sell do so, and let those who do not keep their shares”.²⁷³ This response shows the extent to which Crown purchasing had become based on individualised shareholding.
- 9.7. Despite these protests, the Crown continued to purchase interests from the owners. In 1893 and 1896, the Court made two large partitions of the shares purchased by the Crown which equated to over 100,000 acres.²⁷⁴ In 1896, 44 of the non-sellers, led by Riwai te Pokaitara, petitioned the Crown with an objection to the Court’s assumption that each owner held equal shares in the block, when the owners’ relative interests had never been determined by the Court.²⁷⁵ They argued that those who had sold their interests would have had relatively small shares.²⁷⁶ They also questioned how the Crown could have purchased interests in the block when their understanding was that the Court’s restriction on alienation would apply until the hapū had decided on the subdivision of the land.²⁷⁷ The Crown took no action in response to this petition.
- 9.8. The Crown completed a further purchase in 1899.²⁷⁸ By this time, the Crown had purchased 80 per cent of the Taumatamāhoe block.²⁷⁹ In 1906, the Crown resumed purchasing interests in the remaining land.²⁸⁰ It was reported by a Commission of Inquiry in April 1907 that the non-sellers of the Taumatamāhoe block were pushing

²⁷⁰ Berghan, P. (2003) *Block Research Narratives of the Whanganui District* (Wai 903, A37), p 894; 26 Feb 1889, Large petition from Topia Turoa and 126 others to Native Minister, MA/MLP, 1889/95 found in MA/MLP, 1905/03 Nat Arch, Supporting Papers, Vol, Doc., pp. 14652-14660.

²⁷¹ Te Rangihuatau to Native Minister 8 March 1889, in Archives New Zealand, Wellington MA-MLP 1 1905/03. Supporting Documents, Volume 4, pp.203-239 in Hearn, T.J. (2007) ‘*Creating a Public Estate: Crown land purchasing in the Whanganui Inquiry District, 1865 to 2000*’ (Wai 903, A110), p.115

²⁷² Te Rangihuatau to Native Minister 8 March 1889, in Archives New Zealand, Wellington MA-MLP 1 1905/03. Supporting Documents, Volume 4, pp.203-239 in Hearn, T.J. (2007) ‘*Creating a Public Estate: Crown land purchasing in the Whanganui Inquiry District, 1865 to 2000*’ (Wai 903, A110), p.115

²⁷³ Hearn, T.J. (2007) ‘*Creating a Public Estate: Crown land purchasing in the Whanganui Inquiry District, 1865 to 2000*’ (Wai 903, A110), pp 115–116; Native Minister to Te Rangihuatau, 6 April 1889, MA-MLP 1 1905/03 in Document A110(d) (Hearn supporting documents), pp.203-239.

²⁷⁴ Pickens, K. (2006) *Introduction and Operation of the Native Land Court in the Whanganui Inquiry District 1866-1899* (Wai 903, A83), para.1078, p.400; Innes, C. and Mitchell, J. (2004) *Whanganui and National Park Alienation Study* (Wai 903, A66), p.A196

²⁷⁵ Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), pp.50-51

²⁷⁶ Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), pp.50-51

²⁷⁷ Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), pp. 50-51.

²⁷⁸ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.905

²⁷⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.523

²⁸⁰ Oliver, S. (2003) *Taumatamāhoe Block Report* (Wai 903, A42), p.69; Stout-Ngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.3; Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.891

for a cessation of Crown purchasing.²⁸¹ The 1907 Commission advised the Crown to stop purchasing land in the block.²⁸² In May 1907, the Court awarded the Crown 17,402 acres for the interests it had purchased in 1906.²⁸³

- 9.9. In 1915, despite the 1907 Commission's recommendations, the Crown issued a proclamation prohibiting the owners from selling interests in the Taumatamāhoe 2B2B block to private purchasers and recommenced its land purchasing.²⁸⁴ The Crown wanted to acquire this block for settlement before the construction of a roading network.²⁸⁵ Between 1916 and 1923, the Crown completed 13 transactions for a total of 12,536 acres, all of which required partitioning and thus further survey costs for the owners.²⁸⁶ As a result of Crown purchasing and its compulsory acquisition of land for roading and scenic reserves along the Whanganui River, less than 3,600 acres of the 146,000-acre Taumatamāhoe block remains in the ownership of the iwi of Te Korowai o Wainuiārua.²⁸⁷

10. The Waimarino Block in the Native Land Court

- 10.1. The Crown's purchase of the Waimarino block was a grievous example of its approach to land purchasing in the mid-1880s.²⁸⁸ The Crown's engagement with the owners of the Waimarino block resulted in the rapid alienation of a vast tract of land of crucial economic, social, political, and spiritual importance to the iwi of Te Korowai o Wainuiārua. The Crown discouraged owners from applying for partitions and purchased shares without assessing owners' relative interests or the subsequent allocation of reserves. The 1887 purchase of the Waimarino block was the biggest single partition between the Crown and non-sellers' portions. Of this large block of 452,196 acres, 417,500 acres was awarded to the Crown.²⁸⁹

The Native Land Court's Title Determination of the Waimarino Block

- 10.2. The massive Waimarino block comprises almost thirty per cent of the Te Korowai o Wainuiārua rohe.²⁹⁰ Stretching from the western slopes of Ruapehu to the open plains and densely forested areas, the Waimarino block contained valuable resources for traditional use and was strategically important to the iwi of Te Korowai o Wainuiārua.²⁹¹ The Retaruke, Whakapapa, and Manganui-o-te-Ao Rivers also flow

²⁸¹ Stout-Ōngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.4

²⁸² Stout-Ōngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.4

²⁸³ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), p.908

²⁸⁴ Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), p.90

²⁸⁵ Linz file 20/8-2-SNP, Commissioner of Crown Lands, New Plymouth, to Under Secretary of Lands, 30 October 1911 in Oliver, S. (2003) Taumatamāhoe Block Report (Wai 903, A42), pp.89, 91

²⁸⁶ Innes, C. and Mitchell, J. (2004) *Whanganui and National Park Alienation Study* (Wai 903, A66), pp.A196-197

²⁸⁷ Innes, C. and Mitchell, J. (2004) *Whanganui and National Park Alienation Study* (Wai 903, A66), p.A196

²⁸⁸ Waitangi Tribunal, *He Whiritāunoka: Whanganui Land Report*, volume two, p.637

²⁸⁹ R.P. Boast (ed) *The Native Land Court: A Historical Study, Cases and Commentary 1862-1887* (Thomson Reuters, Wellington, 2013) 1200.

²⁹⁰ Waitangi Tribunal, *He Whiritāunoka: Whanganui Land Report*, volume two, p.545

²⁹¹ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), pp.18-19

through the block and the Whanganui River forms the western boundary of the block. These waterways are critical to the iwi of Te Korowai o Wainuiārua, who established permanent settlements along their banks.²⁹²

- 10.3. On 27 December 1885, Te Rangihuatau, Tāwhirimatea and Tūrehu-o-te-motu applied to the Native Land Court to determine the title of the Waimarino block.²⁹³ Te Rangihuatau, who claimed interests in the block on behalf of Ngāti Tamakana but who was also affiliated to Ngāti Tamahaki, Ngāti Maringi, and Ngāti Taipoto, became instrumental to the Crown's successful purchase of the Waimarino block.²⁹⁴
- 10.4. On 21 January 1886, the notice for the hearing for the Waimarino block was gazetted in the *Kāhiti*. The Chief Judge of the Court gave five weeks' notice for the hearing of the Waimarino block, which did not allow sufficient time for notice to travel to remote communities, to build a case for the hearing, and to travel to the Whanganui township where the hearing was to be held.²⁹⁵ In the two years following the title investigation, the Crown received many petitions from Māori who were not judged to be owners of the Waimarino block, including iwi of Te Korowai o Wainuiārua, who asserted that they did not attend the title investigation because they had not received adequate notice.²⁹⁶ The petitioners sought to be included on the ownership lists for the Waimarino block but the lists were not altered.²⁹⁷
- 10.5. On 2 March 1886, the Court began hearings for the Waimarino block in the Whanganui township.²⁹⁸ The location of the hearing caused great expense and inconvenience for the iwi of Te Korowai o Wainuiārua.²⁹⁹ The hearing of the Taupōnuiātia block was also held early in 1886 in Taupo.³⁰⁰ The Court held the title determination in four days over two weeks.³⁰¹ Te Rangihuatau was the only claimant to give evidence of occupation of the Waimarino block. He stated that he lived at Tīeke and claimed the block under the tūpuna Tamakana.³⁰² Three objectors spoke, and their claims were admitted by Te Rangihuatau in an adjournment and thus the hearing of evidence was complete within a day. The other three days of title investigation were spent organising the ownership

²⁹² Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.19

²⁹³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.562; Pickens, K. (2006) *Introduction and Operation of the Native Land Court in the Whanganui Inquiry District 1866-1899* (Wai 903, A83), p.452

²⁹⁴ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.562; Butler report on purchase and allocation of reserves in Waimarino, 8 July 1887, NLP 87/234, MA1, 1924/202 v1 ANZ in Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.563

²⁹⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.584

²⁹⁶ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.584; Joel, A. (2006) *Document Bank Volume 6 to Waimarino Purchase and Survey Issues Reports 1 & 2, Native Land Purchase Department Files pp.1392-1643* (Wai 903, A99(f)), pp.1487-1502

²⁹⁷ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.584-585

²⁹⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.586-589; Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 367

²⁹⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.584

³⁰⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.548

³⁰¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.586-589

³⁰² Wanganui minute book 9 1 March 1886

lists.³⁰³ On 16 March 1886, the Court awarded the Waimarino block to 1010 owners, later reduced to 921, including many owners from iwi of Te Korowai o Wainuiārua.³⁰⁴

- 10.6. Immediately following the March 1886 hearing, the Court received six partition applications for the Waimarino block from its Māori owners.³⁰⁵ The Crown discouraged applications for subdivision by delaying their proclamation in the *New Zealand Gazette*.³⁰⁶ The Crown did not want partition hearings to proceed while it pursued its purchasing programme, as hearings would cause delays.³⁰⁷ Consequently, the Crown did not gazette the notice of the applications for partition hearings until it had completed its purchase of the Waimarino block in February 1887, and notified its own partition application for the interests it had acquired.³⁰⁸ The Chief Judge consistently refused applications for a rehearing of the Court's determination.³⁰⁹

11. The Waimarino Block Purchase

- 11.1. From 1886 to 1887, the Crown sought to purchase as much land in the Waimarino block as possible for European settlement into the area, to acquire land for the construction and operation of the North Island Main Trunk railway, and for the valuable timber resources on the block.³¹⁰ The Crown sought to profit from the on-sale to settlers of a large area of land, in part, to repay the £1,000,000 loan it had taken out to construct the railway.³¹¹
- 11.2. On 20 March 1886, the Crown made the first payments for the Waimarino block to two individual owners.³¹² These payments occurred four days following the Court's issue of a provisional certificate of title and before the expiry of the three-month period during which parties could apply for a rehearing of the title investigation.³¹³ As the Crown had not yet set a purchase price, these two owners were bound to the Crown's purchase before a price for the block had been agreed.

³⁰³ R.P Boast (ed) *The Native Land Court: A Historical Study, Cases and Commentary 1862-1887* (Thomson Reuters, Wellington, 2013), p.1113

³⁰⁴ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.592

³⁰⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.606

³⁰⁶ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.606-607; Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.307; MLC Whanganui MB 10, p 255, 18 June 1886

³⁰⁷ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.606-607; Joel, A. (2006) *Document Bank Volume 3 to Waimarino Purchase and Survey Issues Reports 1 & 2, Native Affairs Committee papers, Justice & Native Department correspondence files pp.516-761* (Wai 903, A99(c)), pp.550-551

³⁰⁸ Crown Law Office (2009) *Crown Closing Submissions, Issue 6: Waimarino Block* (Wai 903, 3.3.122), p.11, para. 46; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.606, 618, 620

³⁰⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.641; Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), pp.307-308

³¹⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.555, 603; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.62

³¹¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.561; North Island Main Trunk Railway Loan Act 1882, s.3

³¹² Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.597, 601; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report* (Wai 903, A99), p.10; Joel, A. (2006) *Document Bank Volume 1 to Waimarino Purchase and Survey Issues Reports 1 & 2, Lands & Survey Wellington and Auckland District Office Files pp.1-360* (Wai 903, A99(a)), p.27

³¹³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.601

- 11.3. The Crown had been aware of the valuable timber resources on the Waimarino block - from as early as 1879.³¹⁴ The Crown's purchase prices, however, did not reflect the value of this resource.³¹⁵ An official noted that the value of the timber would "probably repay the total cost of the purchase".³¹⁶ In April 1886, the Land Purchase Commissioner sought approval to purchase around 400,000 acres of the Waimarino block for £50,000.³¹⁷ The Native Minister approved a maximum price in the purchase deed at £50,000 and a minimum purchase price at £35,000.³¹⁸ Crown purchase agents were usually expected to acquire Māori land for as low a price as Māori would accept within the approved range. The minimum purchase price of £35,000, divided by the 1,010 owners of the block, equated to at least £35 for each owner's interest.³¹⁹
- 11.4. The Land Purchase Commissioner made payments according to his own assessment of their relative interests in the block.³²⁰ He decided £35 would be the minimum payment for an individual's interest that he judged to be nominal, and to those who did not live on the land.³²¹ Some rangatira, such as Tōpia Tūroa, were paid as much as £170 per interest as the Land Purchase Commissioner believed they owned more of the block and had greater mana in the area.³²² The Crown was also unresponsive to requests from the block's owners to disclose the price per acre, a measure Māori would have been familiar with.³²³ The price the Crown paid to the majority of individuals for the Waimarino block, therefore, was low, even according to its own estimates of a reasonable purchase price, and unfair considering its knowledge of the valuable resources on the block.³²⁴
- 11.5. The Crown also purchased individual shares from members of Te Korowai o Wainuiārua without knowing the relative size of each owner's interests and where those interests were located on the land.³²⁵ This issue was aggravated by the extensive size of the block on which some of the land would have been more valuable than other parts. Under the provisions of the Native Land Act 1873, those owners who were listed

³¹⁴ Crown Law (2009) *Opening submissions on behalf of the Crown* (Wai 903, 3.3.43), p.5; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.62

³¹⁵ Crown Law (2009) *Opening submissions on behalf of the Crown* (Wai 903, 3.3.43), p.5; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.62

³¹⁶ Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.63; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.604

³¹⁷ Telegram Lewis to Butler, 10 April 1886, NLP 86/144, MA 1, 1924/202 v1, ANZ in Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.350; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.603

³¹⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.603; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.11

³¹⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.604

³²⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.604

³²¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.604; Hayes, R. (2009) *Brief of Evidence* (Wai 903, M2), p.127

³²² Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.606

³²³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.611

³²⁴ Telegram Lewis to Butler, 10 April 1886, NLP 86/144, MA 1, 1924/202 v1, ANZ in Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.350; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.603-604; Joel, A. (2006) *Waimarino Purchase and Survey Issues Report: Part Two* (Wai 903, A99(g)), p.63

³²⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.606

on the Court's provisional certificate of title were often considered to hold an equal interest in the entire block until the Court determined the owners' relative interests.³²⁶ Consequently, the owners of the Waimarino block were uncertain which land was included in the Crown's purchases, and were entirely reliant on the Crown's representations.³²⁷

- 11.6. Between March 1886 and February 1887, the Crown purchased 94.7 per cent of the interests of owners under the age of eighteen in the Waimarino block.³²⁸ The Crown purchased the interests of minors from individuals who had not yet been appointed as trustees, and therefore lacked the legal capacity to sell the land.³²⁹
- 11.7. In January 1887, the Chief Surveyor approved a survey of the Waimarino block, despite additional work on the survey plan continuing through until the partition hearing commenced in March 1887, only a year after the title was determined.³³⁰ By February 1887, the Crown had purchased 821 shares from 921 owners which was equivalent to 417,500 acres.³³¹ There was opposition to the Crown's case at the partition hearing, including from Tōpia Tūroa who unsuccessfully sought to discuss the location of the Crown's interest with the Land Purchase Commissioner.³³² On 1 April 1887, the Court awarded the Crown the Waimarino No.1 block which was the largest single block purchased by the Crown in the Whanganui district.³³³

The Non-Seller Blocks

- 11.8. In the partition hearing, the Land Purchase Commissioner appeared at Court to request the partition of the Crown's interest. The 41,000 acres of the Waimarino block that the Crown was not able to purchase from 100 owners was subdivided as non-seller blocks.³³⁴ In December 1886, the applications for partitions from the owners that the Crown had held back since March 1886 were published in the *New Zealand Gazette*.³³⁵ In April 1887, the Court considered the non-sellers' applications for partitions alongside the Crown's application.
- 11.9. The Court heard a significant amount of evidence from the Land Purchase Commissioner, and from those owners who supported him, but did not appear to regard the evidence of other owners as reliable.³³⁶ Only three of the non-sellers

³²⁶ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.601

³²⁷ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.304

³²⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.614

³²⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.617-618

³³⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.621

³³¹ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.479

³³² Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.624

³³³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.620-621, 631

³³⁴ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.620, 626

³³⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.624; NZ Gazette 1886, vol 2, no 69, 30 December 1886, pp.1725-6

³³⁶ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.629

attended the hearing, and the Court discounted the evidence of one of them.³³⁷ The Chief Judge stated at the hearing that, due to their non-attendance, it was “the non-sellers own fault it they are located on the precipices and pinnacles” of the Waimarino block.³³⁸ The Court partitioned seven blocks for the ‘non-sellers’: Waimarino No.s 2 to 8.³³⁹ There is no record of how the Court determined the acreage and location of the non-seller reserves.³⁴⁰ Te Korowai o Wainuiārua non-sellers lost kāinga and urupā of great importance to them through the Crown’s purchase of the Waimarino block.³⁴¹ Also, the part of the Waimarino block that included a large section of Mount Ruapehu fell within the Crown section of the block.³⁴²

- 11.10. Due to a shortage of surveyors, the surveys of the non-seller blocks were delayed until 1891 and were completed in 1896.³⁴³ The Court’s issue of certificates of title for the non-seller blocks were also delayed from 1887 to the mid-1890s, until after the completion of the Crown’s surveys, though the Court back-dated the certificates to 1887.³⁴⁴ Before 1900, the Te Korowai o Wainuiārua owners remained unsure of where their interests were located and were unable to develop the land.³⁴⁵

12. The Waimarino Block Seller Reserves

- 12.1. The Waimarino block purchase deed stipulated that the location and acreage of the seller reserves would be agreed between the Crown and “a representative Chief of each hapū”.³⁴⁶ By May, the Land Purchase Commissioner had promised the sellers 50,000 acres in reserves.³⁴⁷
- 12.2. However, in July 1887, the Land Purchase Commissioner reported that he had created 33,140 acres of seller reserves in six blocks (Waimarino A to F) and allocated each owner a share between 10 and 50 acres.³⁴⁸ He described how he had consulted, rather than coming to a mutual agreement as stipulated in the purchase deed, with a representative chief of each hapū, on the location of the seller reserves.³⁴⁹ The Land Purchase Commissioner wrote that he had chosen to locate the reserves in “areas to

³³⁷ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.629

³³⁸ Clayworth, P. (2004) ‘Located on the Precipices and Pinnacles’: A Report of the Waimarino Non-Seller Blocks and Seller Reserves (Wai 903, A55), pp.39-40

³³⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, pp.626-627, 629

³⁴⁰ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.627

³⁴¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.636

³⁴² Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.630

³⁴³ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.503; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.635

³⁴⁴ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.634

³⁴⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.634

³⁴⁶ Hayes, R. (2009) *Brief of Evidence of R Hayes* (Wai 903, M2), p.110; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.631

³⁴⁷ Hayes, R. (2009) *Brief of Evidence of R Hayes* (Wai 903, M2), p.122

³⁴⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.620

³⁴⁹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.631; Hayes, R. (2009) *Brief of Evidence of R Hayes* (Wai 903, M2), pp.110-111

which I consider they are entitled".³⁵⁰ For example, in 1886 the Land Purchase Commissioner had made a special arrangement with five owners from Ngāti Kahukurapango that the Crown would reserve them 300 acres in "any particular spot they may desire" before the owners agreed to sell their interests.³⁵¹ However, in 1887 the Crown allocated 225 acres for Ngāti Kahukurapango in the Waimarino E reserve, a location selected by the Crown.³⁵²

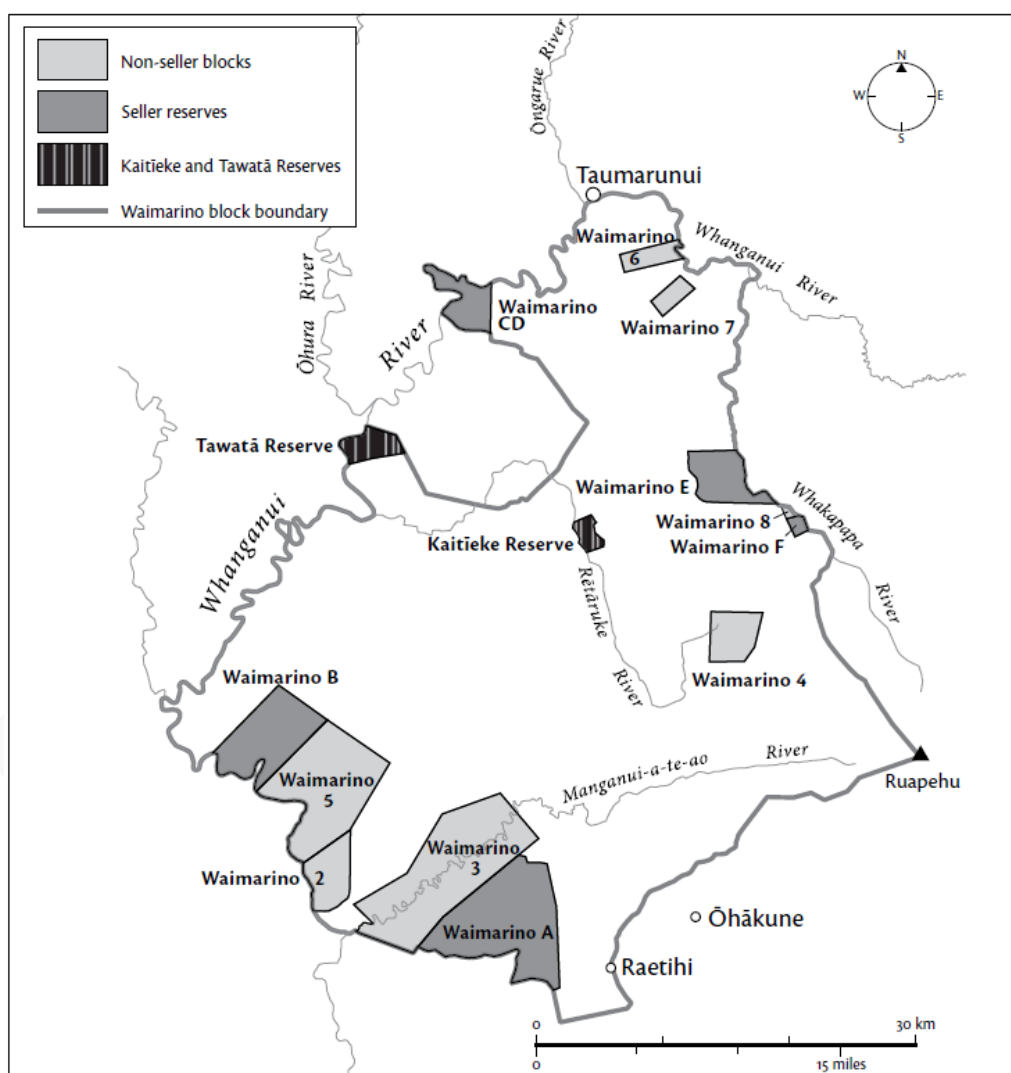


Figure 1: Seller Reserves (A-F) and Non-Seller Blocks (1-8) in the Waimarino Block³⁵³

Te Korowai o Wainuiārua Protest Over the Location of the Reserves

12.3. In the years following the Crown's purchase of the Waimarino block, several members of Te Korowai o Wainuiārua petitioned the Crown to reserve them specific land that

³⁵⁰ Hayes, R. (2009) *Brief of Evidence of R Hayes* (Wai 903, M2), pp.110-111

³⁵¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.632

³⁵² Joel, A. (2006) *Document Bank Volume 4 to Waimarino Purchase and Survey Issues Reports 1 & 2, Native Land Purchase/Native Department Waimarino Purchase Correspondence File, Part 1 (beginning)* pp.775-1122 (Wai 903, A99(d)), p.1059; Hayes, R. (2009) *Brief of Evidence of R Hayes* (Wai 903, M2), pp.110-111

³⁵³ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.630

the Crown had not included in the seller reserves.³⁵⁴ For example, in 1887, Wiari Tūroa petitioned for a 3,000-acre reserve for the grave of Te Pēhi Pākoro Tūroa.³⁵⁵ The Crown declined the request.

12.4. Kirikiriroa was a well-populated settlement on the bank of the Whanganui River which was not reserved for the iwi of Te Korowai o Wainuiārua and was instead included in the land awarded to the Crown.³⁵⁶ In 1892, the Crown proclaimed Kirikiriroa to be within the public domain under the Whanganui River Trust Act 1891.³⁵⁷ Between 1903 and 1912 Te Korowai o Wainuiārua individuals made a number of petitions to the Crown to have Kirikiriroa returned to their ownership without success.³⁵⁸

12.5. In 1895, Winiata Te Kakahi of Ngāti Tara and Ngāti Hinekoropango petitioned the Crown about important burial sites that had been included in the Waimarino No. 1 block, including Tama te Aroha, Te Akatahi, Pakarukaru and Koaikou.³⁵⁹ In 1910, following a petition from some of the Ngāti Hinewai sellers, an official explained that the Crown had selected the location of the seller reserves which it considered were “gifts from the Crown to the former Native owners”.³⁶⁰ This attitude was directly at odds with the 1886 deed, which provided that the location of the seller reserves would be agreed between the Crown and a representative rangatira of each hapū.

Tieke

12.6. Tieke was a Te Korowai o Wainuiārua kāinga and a highly significant urupā. Despite its inclusion in the Crown’s portion of the Waimarino block, members of Te Korowai o Wainuiārua continued to live at the kāinga until the first decade of the twentieth century.³⁶¹

12.7. Tieke was the residence of Te Rangihuatau, the rangatira who made the initial application to the Court for the Waimarino block in 1886.³⁶² He supported the Crown at the hearings, and assisted the Crown with its purchase of the block.³⁶³ During the

³⁵⁴ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.555

³⁵⁵ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.555

³⁵⁶ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.558

³⁵⁷ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.559

³⁵⁸ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.559

³⁵⁹ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.555; Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume one, p.59

³⁶⁰ Memo T W Fisher to Chairman Native Affairs Committee 17 November 1910, Le1/1910/21 ANZ in Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.553

³⁶¹ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.637; Gould, A. (1994) *Investigation of the Circumstances of the Crown’s Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), pp.2, 24

³⁶² Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.588

³⁶³ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.588

Crown's purchase negotiations in 1886 and 1887, the Commissioner had made other special arrangements with rangatira, including Te Rangihuatau, for land or money as rewards for their assistance with the Crown's purchase of the Waimarino block, but no official record was made of some of these arrangements.³⁶⁴

- 12.8. In 1887, officials instructed Crown surveyors to include Tieke in the Crown's Waimarino No. 1 block, rather than in a non-seller reserve.³⁶⁵ When the Court provisionally partitioned the Crown's purchase of the Waimarino block in April 1887, the sketch plan of the Waimarino block included pencil lines indicating the boundary lines of the non-seller blocks. These lines show that Tieke was within the Waimarino No. 1 block, though it is not known when these lines were added to the plan.³⁶⁶ Te Rangihuatau and others who continued to live at Tieke were awarded land in the Waimarino E seller reserve.³⁶⁷
- 12.9. In 1892, the Crown declared an unsurveyed block of 267 acres of land on the banks of the Whanganui River, including Tieke, to be a Public Domain and placed under the control of the Whanganui River Trust.³⁶⁸ The Crown only held a provisional title to this land. However, the Crown accepted Te Rangihuatau's continued occupation of the site. In 1894, Premier Seddon visited Te Rangihuatau at his residence at Tieke.³⁶⁹
- 12.10. In January 1895, Te Rangihuatau wrote to the Minister of Native Affairs questioning why there would be a survey of the urupā at Tieke as he had withdrawn the "Tieke block in a proper manner before the Court and the man who bought it".³⁷⁰ He explained that Tieke had been withdrawn from the sale at the second Court hearing by Major Kemp, in the presence of the Native Minister.³⁷¹ While, there is no mention in the Court's minute books that this occurred, the Minister was in Whanganui at the time of the hearing.³⁷²

³⁶⁴ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), pp.570, 575

³⁶⁵ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.637

³⁶⁶ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.32; Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.569

³⁶⁷ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.33

³⁶⁸ Waitangi Tribunal, *He Whiritaunoka: Whanganui Land Report*, volume two, p.638; Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.3; Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.567

³⁶⁹ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), pp.3-4, 14

³⁷⁰ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.16

³⁷¹ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), pp.17, 20

³⁷² Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.23; Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.583

- 12.11. Te Rangihuatau and Ngāti Maringi had no intention of leaving Tieke.³⁷³ Te Rangihuatau described how he met with Native Minister John Ballance in 1887 to discuss reserving the land at Tieke for the sellers' occupation.³⁷⁴ Te Rangihuatau's letter also states that the hapū had built new meeting houses and churches, which Native Minister Richard Seddon had seen on his visit in 1894.³⁷⁵
- 12.12. The Crown did not instantly dismiss the claims in Te Rangihuatau's 1895 letter as it had with other land claims on the Waimarino block but promised to send officials to Tieke to discuss the matter directly.³⁷⁶ However, there is no record for this meeting. In 1898, the Chief Land Purchase Officer noted that Tieke was "Crown lands which the Natives are allowed to use and occupy without a title".³⁷⁷ Te Rangihuatau passed away in 1908 and was buried at Tieke, which became depopulated.³⁷⁸
- 12.13. In 1916, the family of Te Rangihuatau gave evidence to the Wanganui River Reserves Commission of Inquiry on the Crown's acquisition of Tieke.³⁷⁹ The Commission described how a "mistake about this public domain" appeared to have been made.³⁸⁰ They found that twenty-five acres had been incorrectly included in the 267-acre public domain in 1892, upon which the Tieke kāinga and urupā stood, and should be "restored" to the Māori owners.³⁸¹ The Crown did not act on this recommendation.³⁸²

13. Waimarino No.4 Non-Seller Block

- 13.1. The Waimarino No.4 non-seller block comprised 3,450 acres and the Native Land Court awarded it to fifteen owners from four Te Korowai o Wainuiārua hapū.³⁸³ Located at the southern edge of the Waimarino plains, an early map shows an

³⁷³ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.23

³⁷⁴ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.23; Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), pp.564, 569

³⁷⁵ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.23

³⁷⁶ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), pp.584-585

³⁷⁷ Marr, C. (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues* (Wai 903, A60), p.585

³⁷⁸ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.24

³⁷⁹ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.29

³⁸⁰ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.30

³⁸¹ Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.30

³⁸² Gould, A. (1994) *Investigation of the Circumstances of the Crown's Acquisition of an Area of Land Located on the Whanganui River and Associated with Tieke Hut* (Wai 903, A15), p.36

³⁸³ Ngāti Atamira, Ngāti Kahukurapango, Ngāti Maringi and Ngāti Ruakopiri - Clayworth, (2004) 'Located on the Precipices and Pinnacles': A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 153

ungraded dray road traversing the block, a thick cover of native forest, and two sites of Māori residence, one with cultivations.³⁸⁴

- 13.2. Although the Crown had initially diverted the planned 'central route' of the North Island Main Trunk Railway line around the Waimarino No.4 non-seller block, by the time its survey was finally completed in 1895 the railway alignment bisected the block.³⁸⁵ No evidence has been found of negotiations with the owners of the block regarding the route of the approaching railway, the impact it would have on sites like urupā and kainga, or compensation for land, timber, or construction materials taken from the block.³⁸⁶ Between 1903 and 1908, workers laid most of the track across the Waimarino plains.³⁸⁷
- 13.3. In 1910, the Crown acquired 64 acres of the Waimarino No.4 non-seller block as the right of way for the North Island Main Trunk Railway line.³⁸⁸ This taking cut an urupā off from the rest of the Waimarino 4A5 partition by isolating it between the railway and the main public road. The urupā was not mentioned in correspondence at the time of the taking, and no evidence can be found of the Crown offering compensation or remediation regarding access.³⁸⁹
- 13.4. By 1907, despite owning 99 per cent (412,000 acres) of the Waimarino No.1 block and 62,300 acres around the maunga as a national park, the Crown recommended the acquisition of further Māori-owned land along the railway's 'central route' in order to create a scenic reserve.³⁹⁰ The owners protested, objecting to the uncompensated taking of land for roads and the railway, the taking of earth and gravel without compensation, and the taking of land for defence.³⁹¹ They desired that their land "be left as a home and for the cultivation of our children after us".³⁹² Officials declined to address any issues other than those relating to the taking of land for the scenic reserves, which they dismissed as irrelevant, and disregarded the objectors' claims regarding a home and cultivations.³⁹³ In May 1912, the Crown took just over 128 acres

³⁸⁴ ML 1368 (1895)

³⁸⁵ Please see ML 776, map produced in AJHR, 1889, D-01, pdf p. 73; Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), p. 604

³⁸⁶ Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), pp. 606-07

³⁸⁷ Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), p. 606

³⁸⁸ *New Zealand Gazette*, 17 February 1910, No. 15, p. 596, Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), p. 607

³⁸⁹ Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), pp. 607-08

³⁹⁰ P. Clayworth, (2004) 'Located on the Precipices and Pinnacles': A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 162

³⁹¹ P. Clayworth, (2004) 'Located on the Precipices and Pinnacles': A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 163

³⁹² P. Clayworth, (2004) 'Located on the Precipices and Pinnacles': A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 163

³⁹³ P. Clayworth, (2004) 'Located on the Precipices and Pinnacles': A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 164; Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), p. 609

of the Waimarino No.4 non-seller block for a scenic reserve for which it paid compensation a year later.³⁹⁴

- 13.5. In addition to taking lands in Waimarino for the railway, the Crown also sought lands for defence purposes. In 1911, the Crown took 1,417 acres in the Waimarino No.4 non-seller block for defence purposes. After complaints from the owners that the Crown was taking “all of their homes and burial places”³⁹⁵, the Crown revoked a 376 acre section of this taking. Intended to be a training ground for manoeuvres (i.e. an open space without permanent buildings), there is no evidence that the area was used as such prior to or during the First World War or subsequently in the 1920s and 1930s.³⁹⁶
- 13.6. In 1922, land taken from the Waimarino No.4 non-seller block for defence was included within an expanded Tongariro National Park. The 367 acres of land that had been returned to its owners in 1911, however, were erroneously included in the schedule of the 1922 Tongariro National Park Act.³⁹⁷ This mistake was only rectified in 1924 when the land was returned, again, to its Māori owners.³⁹⁸
- 13.7. In the 1960s, the Justice Department purchased all remaining land in the Waimarino 4A subdivisions for ‘development purposes’.³⁹⁹ By 1970, the Crown had purchased an additional third of the Waimarino No.4 block from its owners. What little Māori-owned land that remained in the non-seller block was purchased by the Pehi whānau to secure general title for their descendants in perpetuity. In 1969 the Crown used powers under the Māori Affairs Amendment Act 1967 to declare this land general land without the approval of its owners, making that land no longer subject to the protections available to it as Māori freehold land.⁴⁰⁰
- 13.8. Today, 0.02 acres of the Waimarino No.4 non-seller block remains in Māori freehold ownership.⁴⁰¹

³⁹⁴ P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), pp. 160, 164; Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), p. 609

³⁹⁵ Crown Closing Submissions (Wai 903, 3.3.126), p. 8, para. 28

³⁹⁶ P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 158

³⁹⁷ P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), pp. 158-59

³⁹⁸ P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), pp. 158-59

³⁹⁹ P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 169

⁴⁰⁰ P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 177. They wanted “to ensure that [their] descendants had a tūrangawaewae – somewhere they could always come home to” (Statement of Evidence of Te Mataara Wati Tira Pehi (nee Taurerewa) (Wai 903, H002), p. 17, para. 65).

⁴⁰¹ 4.7 perches equal 0.02 acres. P. Clayworth, (2004) ‘Located on the Precipices and Pinnacles’: A Report on the Waimarino Non-Seller Blocks and Seller Reserves (Wai 1130, A35), p. 177

14. Public Works

- 14.1. Between 1893 and 1929 the Crown compulsorily acquired more than 207 acres of land from iwi of Te Korowai o Wainuiārua for the North Island Main Trunk (NIMT) railway, mainly from the Waimarino reserves and Raetihi blocks.⁴⁰² Haitana Te Kauhi and others wrote to the Minister of Public works as late as 1912 raising concerns that compensation for the taking of land from the Waimarino block still had not been paid.⁴⁰³ The response from the Minister's office echoed Ballance's 1887 message that the increase in value of the remaining land was compensation enough.⁴⁰⁴ Despite promises in 1885 that compensation for compulsory acquisitions would be paid, by the turn of the century, officials from the Public Works Department had become unaware that any compensation was owed to Māori at all for land taken for the railway.⁴⁰⁵ The iwi of Te Korowai o Wainuiārua were not paid compensation for the 207 acres of land taken for the NIMT railway.

15. Twentieth Century Crown Purchasing

- 15.1. At a hui in Pūtiki in 1898, attended by rangatira with affiliations to Te Korowai o Wainuiārua, Premier Seddon stated that the sale of Māori land must stop, because "in saving the land [they] are saving the Native people".⁴⁰⁶ Despite the taihoa on purchasing from 1900 to 1906, Crown purchasing in the Te Korowai o Wainuiārua rohe continued into the twentieth century. Between 1906 and 1907, the Crown also purchased over 80 per cent of the 63,463-acre Whakaihuwaka block.⁴⁰⁷ In 1907, the Stout-Ngata Commission investigated the land remaining in Māori ownership and made recommendations to the Crown about where purchasing should cease.⁴⁰⁸ With regard to the whole Whanganui district, the Commission advised the Crown that its present system of purchasing should not continue.⁴⁰⁹ In particular, the Commission investigated Crown purchasing in the Whakaihuwaka block and stated that the owners pressed for a cessation of Crown purchasing.⁴¹⁰ The Commission recommended that the remaining land in the Whakaihuwaka block be kept in Māori ownership for their own farms and to lease to European farmers.⁴¹¹

⁴⁰² C. Marr (2004) *The Waimarino Purchase Report: The investigation, purchase and creation of reserves in the Waimarino block, and associated issues*, (Wai 903, A60), pp. 607.

⁴⁰³ Cleaver (2004) *The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000* (Wai 903, A057), p.192.

⁴⁰⁴ Cleaver (2004) *The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000* (Wai 903, A057), p.192

⁴⁰⁵ Cleaver (2004) *The Taking of Maori Land for Public Works in the Wanganui Inquiry District: 1850-2000* (Wai 903, A057), p.191.

⁴⁰⁶ AJHR (1898) *Meeting of the Premier and the Hon. James Carroll with the Chiefs and others of the Wanganui Tribe, held on the 14th of May 1898, at Putiki, Wanganui*, p.35 in Walzl, T. (2004) *Supporting Papers for Whanganui Land: 1900-1970, Vol. V* (Wai 903, A51(e)), p.1851

⁴⁰⁷ Stout-Ngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.3

⁴⁰⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.704; Stout-Ngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.3

⁴⁰⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.704; Stout-Ngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.16

⁴¹⁰ Stout-Ngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.4

⁴¹¹ Stout-Ngata Commission (1907) *Native Lands in the Whanganui District (Interim Report on)*, AJHR 1907 G-1a, p.4

- 15.2. In 1909, the Crown promoted the Native Land Act of that year which amended the law relating to alienation restrictions. From 1910, the Crown resumed purchasing in the region.⁴¹² Between 1917 and 1927, despite the recommendations by the Stout-Ngata Commission, the Crown purchased more than 20,000 acres in the Whakaihuwaka block.⁴¹³ There is only about 1,252 acres remaining in Māori ownership in this block.⁴¹⁴ Private parties also acquired a large proportion of the small amount of land retained by the iwi of Te Korowai o Wainuiārua. For example, between 1911 and 1956, private parties purchased 3,272 acres of land in the Mairekura block, leaving little over 270 acres in Māori ownership.⁴¹⁵
- 15.3. Between 1910 and 1930, the Crown acquired more than half of the land remaining in the Waimarino non-seller blocks and seller reserves.⁴¹⁶ The largest Crown purchase in this period was the Te Korowai o Wainuiārua owner's 6,195-acre seller reserve, the Waimarino block B3B2B, in 1913.⁴¹⁷ A meeting of assembled owners, attended by three of the 172 owners, decided unanimously to sell the block to the Crown.⁴¹⁸ By 1929, large-scale Crown purchasing had ceased.⁴¹⁹ In the same period, private parties purchased 28,200 acres of the remaining Māori land in the Waimarino block.⁴²⁰ In the Waimarino E seller reserve, in which Te Rangihuatau was allocated land, private parties purchased all of the remaining Māori land.⁴²¹ By 1930, of the 74,140 acres of land originally allocated as seller reserves and non-seller Waimarino blocks, less than 35,000 acres remained in Māori ownership.⁴²²

16. The Tongariro National Park

- 16.1. The maunga of the central North Island are of immeasurable significance to the iwi of Te Korowai o Wainuiārua who consider them *wairua tapu*.⁴²³ They were a treasure-trove of natural resources for Te Korowai o Wainuiārua that fed their bodies and nourished their souls.⁴²⁴ The lakes and streams brimmed with īnanga and eels, while the bush was abundant with kaka, kererū, kiwi, tītī, and miro berries.⁴²⁵ Threaded through the landscape were tracks left by seasonal hunters and gatherers and the

⁴¹² Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.704

⁴¹³ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.1077-1079

⁴¹⁴ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.1080-1081

⁴¹⁵ Berghan, P. (2003) *Block Research Narratives of the Whanganui District: 1865-2000* (Wai 903: A37), pp.179-187

⁴¹⁶ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.1042

⁴¹⁷ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.1049

⁴¹⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.1049

⁴¹⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.722

⁴²⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, p.1054

⁴²¹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Two, pp.1056-1057

⁴²² Innes, C. and Mitchell, J. (2004) *Whanganui and National Park Alienation Study* (Wai 903, A66), p.A232

⁴²³ Hemara, Dr. Wharehuia (2006) *Central Claims Charitable Trust Oral & Traditional History Project* (D1130, D014), para. 16.0

⁴²⁴ Hemara, Dr. Wharehuia (2006) *Central Claims Charitable Trust Oral & Traditional History Project* (D1130, D014), para. 14.9; Brief of Evidence of Robert (Boy) Cribb (2005), Wai 1130, D027, paras. 10.3, 2.2

⁴²⁵ Brief of Evidence of Robert (Boy) Cribb (2005), Wai 1130, D027, para. 8.1; Brief of Evidence of Aiden Hapimana Gilbert (2006), Wai 1130, D034, para. 8; Closing Submission of Counsel (2006), Wai 1130, 3.3.40, para 470

footprints of visitors walking between kāinga.⁴²⁶ With “one foot on the maunga and one foot in the river”⁴²⁷, the relationship between these two elemental features has long shaped the foundational worldview of Te Korowai: that the iwi whakapapa to the land.

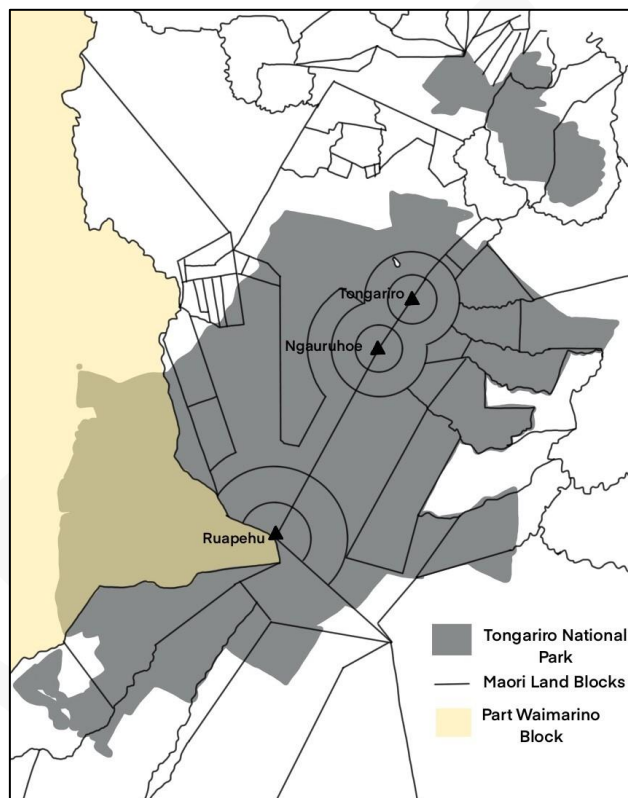


Figure 2: Tongariro National Park with Māori Land Blocks and Part Waimarino Block

- 16.2. By the 1870s, the Crown was aware of the significance of the maunga to the hapū and iwi living on all sides of the maunga (including Te Korowai o Wainuiārua)⁴²⁸ when it initiated an intensive immigration scheme to reinvigorate New Zealand’s economy.⁴²⁹ As part of this scheme, the Crown borrowed large sums of money to fund public works, and to purchase Māori land.⁴³⁰ Large tracts of land between Whanganui and Taupo were identified as strategically important for settlement.⁴³¹

⁴²⁶ Generic Submissions Relating to the ‘Gift’ of the Peaks and the Establishment of the Tongariro National Park (2007), Wai 1130, 3.3.23, pp. 65-66

⁴²⁷ Brief of Evidence of Robert (Boy) Cribb (2005), Wai 1130, D027, para. 2.7

⁴²⁸ For written evidence of this awareness re Te Korowai o Wainuiārua in years 1860, 1869, 1873, 1874, 1881, and 1886, please refer to Anderson, R. (2005) *An Overview Report on the Relationship Between Māori and the Crown in the Establishment of the Tongariro National Park* (Wai 1130, A009), pp. 32, 19, 23; Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), pp. 29; *Notes of Native Meetings held in Upper Whanganui*, AJHR 1870, A-13, p. 8; *Native Meeting, Poutū, Taupo*, AJHR 1886, I, G-03, p. 1; and Native Land Court Whanganui MB No.03 (Rangataua Block hearing); *Whanganui MB No.01E* (Murimotu Block hearing) and *Taupo MN No.02* (Rangipō-Waiu Block hearing).

⁴²⁹ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 375

⁴³⁰ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 375

⁴³¹ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 375

- 16.3. An important part of this ambitious plan was protecting natural assets from private purchasers who might exploit or damage them, the completion of the North Island Main Trunk Railway through the central plateau, and encouraging domestic and international tourism.⁴³² Discussions about the reservation of Ruapehu, Ngauruhoe and Tongariro as significant features began during this time. For example, in the early 1870s, proposals were made to include the geothermal springs of Tongariro and some of Ruapehu in what was suggested to be the publicly-owned 'Hot Springs District' of the North Island.⁴³³ When the Minister for Lands reserved Aoraki/Mount Cook in the early 1880s, members of the public suggested a 'public domain' be established at Tongariro.⁴³⁴ And by late-1884, the Minister for Lands told the House of Representatives that the Crown would take steps to prevent Ruapehu, Ngauruhoe, Tongariro, Rotoaira, and Tokaanu from falling into private hands.⁴³⁵ The Crown had, therefore, begun engaging in ideas to establish a public park around the maunga at the same time that Māori submitted applications to the Native Land Court for land around the mountains.

Clashing Native Land Court Hearings

- 16.4. In late 1885 following Te Ōhāki Tapu, applications were submitted to the Native Land Court by another iwi for the two-and-a-half million acre⁴³⁶ Taupōnuiātia block, and Te Korowai o Wainuiārua for the half-million acre Waimarino block. Both of these blocks would be crucial to the creation of the Tongariro National Park, and in January 1886

⁴³² Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 381 - Records show recommendations for a tourist resort south of Taupo in 1862 (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), p. 23), a 'Public Park and Recreation Ground for the whole Colony' around the 'Lake country' in 1872 (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), pp. 24-25), and the nationalisation of all geothermal areas that could be considered marketable commodities in 1874 (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), pp. 26-27). Although delays by Māori meant the Tongariro-Tokaanu area was not included in the eventual act, when the Thermal Springs Districts Act was passed in 1881, its intent was for 'public amusement or recreation' (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), p. 26). The Minister of Lands noted that his rationale for obtaining thermal districts from Māori was purely financial, and particularly sought to attract foreign tourists (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), p. 33).

⁴³³ Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), pp. 26, 27; Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 380

⁴³⁴ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 380 - In 1883, British author, John Kerry-Nicholls, wrote to Governor Grey suggesting that a 'public domain' be established north of Tongariro.

⁴³⁵ 1884, 17 October, HANSARD, p. 532

⁴³⁶ Once the Native Land Court had excluded lands that had already been investigated by the court or which lay within the Mohaka-Waikare confiscation district, this reduced the Taupōnuiātia block to an estimated one and a quarter million acres. Copy of application of 31 October 1885 in MA 71/6

the Minister for Lands directed a Crown-purchase officer to take steps to establish the peaks as a reserve for public purposes.⁴³⁷

- 16.5. Hearings for the Taupōnuiātia and Waimarino blocks were held in early 1886. Although officials acknowledged that the principal rangatira of the Whanganui region had asked that the Waimarino hearing not open in the new year so that they could attend the Taupōnuiātia case in Tapuaeharuru⁴³⁸, the Court elected to sit at Whanganui township.
- 16.6. Te Korowai o Wainuiārua claimants, preparing for and traveling to remote locations to defend their interests at hearings, were obliged to choose between courts. Members of Te Korowai o Wainuiārua⁴³⁹ protested about concurrent hearings held in Whanganui, Taupo, and Napier, and argued that Native Land Court sittings in the same month made it impossible to attend the hearings at the same time.⁴⁴⁰ There is, therefore, no evidence of a substantial presence by Māori from the Whanganui district at the Taupōnuiātia hearing.⁴⁴¹

Western Ruapehu including in the Tongariro National Park

- 16.7. While the Waimarino hearing was underway in Whanganui in early 1886, the Crown received confirmation that agreement had been reached with the members of another iwi to reserve two- and three-mile radii around the mountain peaks as public recreation grounds.⁴⁴² Despite being aware that Te Korowai o Wainuiārua had interests in Ruapehu maunga before proposing or entering into this arrangement, however, there is no evidence that the Crown considered them.
- 16.8. There is also no evidence that Crown purchasing agents disclosed to individual Te Korowai o Wainuiārua sellers the Crown's intention to create a national park when they purchased their interests. At prime opportunities such as the hui held at Aramoho in Whanganui in March 1886, officials discussed the advancing a 'central' railway route but no mention was recorded of a proposed public park.⁴⁴³ It appears unlikely that purchase agents⁴⁴⁴ ever mentioned to Te Korowai o Wainuiārua the

⁴³⁷ Anderson, R. (2005) *An Overview Report on the Relationship Between Māori and the Crown in the Establishment of the Tongariro National Park* (Wai 1130, A009), p. 65 – William Grace was a salaried Crown purchase officer from late 1885. His brother, Lawrence Grace, was married to Te Kāhui, daughter of Horonuku Te Heuheu.

⁴³⁸ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 296

⁴³⁹ Ngāti Kahukurapango

⁴⁴⁰ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 297

⁴⁴¹ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 297

⁴⁴² Anderson, R. (2005) *An Overview Report on the Relationship Between Māori and the Crown in the Establishment of the Tongariro National Park* (Wai 1130, A009), p. 64

⁴⁴³ Marr, C. (2004) *The Waimarino Purchase Report* (Wai 903, A060), p. 341

⁴⁴⁴ Butler (Crown land purchase commissioner); John Stevens (private agent under contract to the Crown); Lewis (Under-Secretary of the Native Department); and Thomas McDonnell, W.H. Grace, and G.T. Wilkinson at times.

purpose for which Ruapehu's slopes within the Waimarino block were being acquired.⁴⁴⁵

- 16.9. Although the Crown considered Ruapehu's slopes had no inherent value⁴⁴⁶, and described the proposed park's boundaries as "much greater than what was originally intended"⁴⁴⁷, when the Native Land Court awarded the contiguous 420,000 acre Waimarino No.1 block to the Crown Te Korowai o Wainuiārua found that this included all the land from the railway line up Ruapehu's western slope to its summit.⁴⁴⁸

Protest and Petition

- 16.10. At more or less every stage of the Court's and Crown's dealings over the Waimarino and Taupōnuiātia blocks, Māori sent letters and petitions to government, the Premier, and the Native Minister.⁴⁴⁹ Some approached the Supreme Court⁴⁵⁰, others contacted Māori members of Parliament.⁴⁵¹ One group of petitioners even travelled all the way to Wellington to put their case in person.⁴⁵²
- 16.11. These protests ranged across every aspect of the Native Land Court's awards and subdivisions, and the Crown's purchasing.⁴⁵³ Between November 1887 and August 1888, for example, Māori including Te Korowai o Wainuiārua submitted at least 24 applications for rehearing alone. Topia Tūroa described the Native Land Court's decisions about land at Taurewa as "a very foul murder" and blamed the Crown.⁴⁵⁴ Many of the petitioners argued that they had been unavoidably absent from hearings, or that land had been awarded wrongfully.⁴⁵⁵
- 16.12. None of the protestors or petitioners were successful. Between 1886 and 1896, no chief judge granted any request for a rehearing of land connected to what became the

⁴⁴⁵ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 531

⁴⁴⁶ McKenzie determined the mountain areas had no inherent value aside from the state's capacity to transform scenery into a marketable commodity (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), p. 81).

⁴⁴⁷ NZPD, 20 May 1887, No. 57, p. 399 in Wai 1130, A056(a), pp. 276; The 1887 Tongariro National Park Bill included comments about the need to go beyond the gift area of 23,500 acres 'to provide sufficient space' stipulating a total of 62,000 acres which would include the gifted land, Crown land, and some land in customary title which had not yet passed through the Native Land Court (Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), p. 67); Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, pp. 372-3

⁴⁴⁸ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, pp. 367, 368

⁴⁴⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, p. 642

⁴⁵⁰ Pickens, K. (2004) *Introduction and Operation of the Native Land Court in the Central North Island* (Wai 1130, A031), para. 806

⁴⁵¹ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 349

⁴⁵² Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 349

⁴⁵³ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, p. 642

⁴⁵⁴ Stirling, B. (2004) *Taupo-Kaingaroa 19th Century Overview Project* (Wai 1130, A039, Vol. 2), p. 999/pdf p. 216

⁴⁵⁵ Pickens, K. (2004) *Introduction and Operation of the Native Land Court in the Central North Island* (Wai 1130, A031), para. 806

Tongariro National Park.⁴⁵⁶ Even the 1889 Taupōnuiātia Royal Commission of Inquiry did not investigate any of the land that would later be included in the park.⁴⁵⁷ The Crown either refused to receive them and insisted on alternate courses of appeal⁴⁵⁸, or discredited petitioners as opponents of the Native Land Court and supporters of Māori self-determination.⁴⁵⁹

Crown Develops Policy for the Park

- 16.13. In February and March 1887 New Zealand newspapers described how a bill was being prepared to establish a national park around Tongariro, Ruapehu, and Ngauruhoe.⁴⁶⁰ The Crown would only complete the acquisition of Te Korowai o Wainuiārua interests in the Waimarino Block, including the slopes of Ruapehu, in April 1887.⁴⁶¹ The 1887 Tongariro National Park Bill was discharged, however, when the Stout-Vogel government was dissolved.⁴⁶²
- 16.14. By the late 1880s, Māori had become unwilling to sell further land around the maunga to the Crown (or offered to sell only at prices the Crown considered ‘prohibitive’).⁴⁶³ The Native Minister reported that Māori around the maunga refused to “part with any more [land] as a free gift”.⁴⁶⁴ By the early 1890s Crown purchasing in this district had ground to a halt.
- 16.15. On 18 July 1893, a second Tongariro National Park Bill was introduced to Parliament. The bill’s schedule described a three-mile radius around the peaks of Tongariro and Ngauruhoe, a four-mile radius around the peak of Ruapehu, and a corridor linking them to comprise a 62,300 acre ‘dumbbell-shaped’ park.

⁴⁵⁶ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 320 – see same page for Rangiwaia and ‘opportunities’ despite repentance.

⁴⁵⁷ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 323

⁴⁵⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, p. 642. For instance, all five applications for rehearing the Waimarino block submitted to the Court by February 1887 were dismissed by the Crown (Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, p. 641 - The Waitangi Tribunal is unclear why dismissals occurred, but notes there is no evidence to suggest it was illegal, although the chief judge of the Native Land Court was not required to give reasons and his decision was final (p. 642)).

⁴⁵⁹ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 485

⁴⁶⁰ Proposed National Park (16 February 1887), New Zealand Herald, Vol. XXIV, Issue 773, p. 5; Our Letter Home (23 March 1887), Lyttelton Times, Vol. LXVII, Issue 8125, p. 1 (Supplement)

⁴⁶¹ Although the Bill had its first reading on 28 April 1887 (HANSARD, No. 57, 1887, p. 12), the Bill’s preparation was discussed publicly in February and March.

⁴⁶² Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 487

⁴⁶³ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 368

⁴⁶⁴ Joel, A. (2005) *The Origins of the Gift of the Peaks and the Establishment of the Tongariro National Park* (Wai 1130, A056), p. 25, para. 57; Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 368

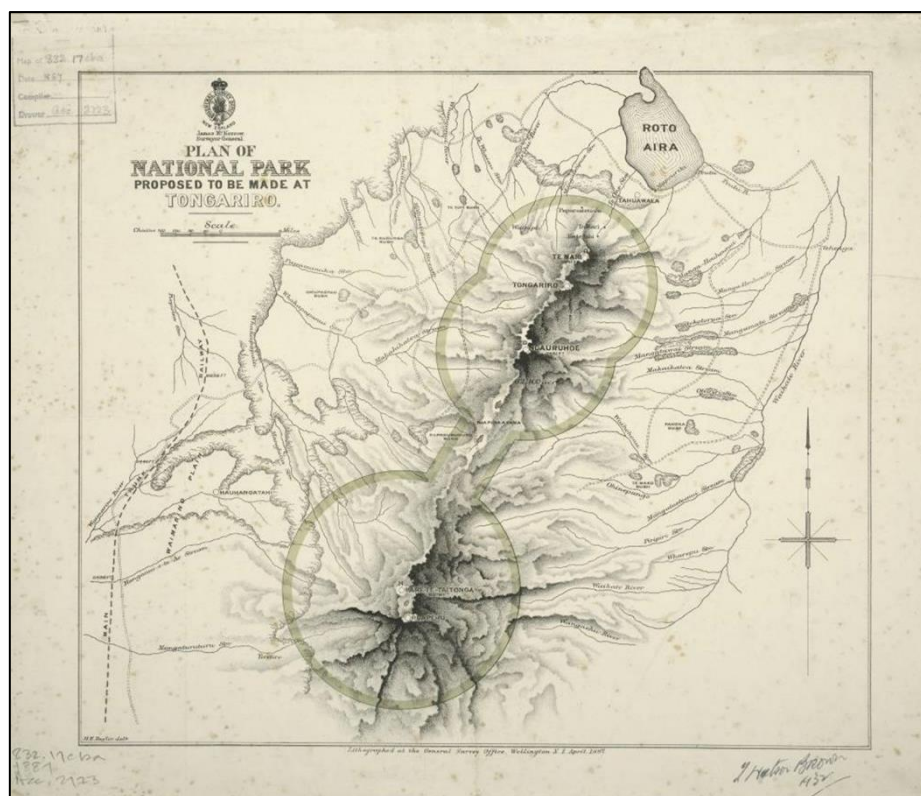


Figure 3: Plan of National Park Proposed to be made at Tongariro (April 1887)

- 16.16. This bill also introduced a provision to enhance the powers of the Governor in Council (and under the Public Works Act 1882) to compulsorily acquire any areas of the Park still held by Māori owners.⁴⁶⁵ There is no evidence that the iwi of Te Korowai o Wainuiārua were aware that this bill was being debated. The Tongariro National Park Bill was enacted into law in 1894.
- 16.17. By 1899, the Crown had purchased all but about 5,000 acres of the land designated for the Tongariro National Park. When the park was proclaimed in 1907, the 5,000 acres of land remaining in Māori ownership were compulsorily acquired by the Crown, being parts of the Rangipō North No. 8, Ōkahukura No. 1, and Ōkahukura No. 8M blocks. The Crown was required by the 1894 Act to pay compensation for lands compulsorily acquired for the park but it did not do so.⁴⁶⁶
- 16.18. The Tongariro National Park Act 1922 increased the size of the park from 62,300 acres to 145,000 acres.⁴⁶⁷ Large areas of adjacent land were subsequently added to the

⁴⁶⁵ Anderson, R. (2005) *An Overview Report on the Relationship Between Māori and the Crown in the Establishment of the Tongariro National Park* (Wai 1130, A009), p. 103; Coombes, B. (2007) *Tourism Development and its Influence on the Establishment and Management of the Tongariro National Park* (Wai 1130, I001), p.p. 78-9; Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 373; Surveyors “urge[d] that provision be made for the acquisition of [Māori and private lands]” (AJHR, [1908](#), C-8, p. 5)

⁴⁶⁶ Commissioner of Crown Lands to Under-Secretary for Lands, 13 December 1929. AANS 6095 W5491, 4/362. ANZ. Wai 1130 #D55, pp.73-74; Wai 1130 #A53, pp.18, 22, and 31-34; Wai 1130 #A53(a), p.121; Judge O’Malley, 1960, cited in Wai 1130 #A70(a), p.12; and, TKM, pp.439 and 531-533, 537-538, 574-575, and 595

⁴⁶⁷ [Tongariro National Park Act 1922 \(13 GEO V 1922 No 31\)](#)

park, eventually tripling its area to the current extent of 196,500 acres (79,520-hectares).⁴⁶⁸ The adjacent Tongariro Conservation Area comprises 53,000 acres (21,500-hectares).

Management of the Tongariro National Park

- 16.19. The Tongariro National Park Act 1894 provided for the administration of the park but did not recognise the interests of Te Korowai o Wainuiārua. As a result, the hapū and iwi of Te Korowai o Wainuiārua have not been included in the ongoing management arrangements of the Tongariro National Park for decades which represents a vision they did not seek and do not share.⁴⁶⁹
- 16.20. Te Korowai o Wainuiārua have been unable to exercise their kaitiakitanga obligations and responsibilities to protect taonga within the park from physical and cultural degradation.⁴⁷⁰ The park's establishment closed their 'kai cupboards' by obstructing access to wairua, kai, and rongoā (for example, the National Parks Act 1952 made the collection of indigenous flora and fauna from the park an offence⁴⁷¹).⁴⁷² Introduced species have had a negative impact upon, and continue to threaten, indigenous birds and flora (in the case of one introduced pest species, heather, the Crown directly facilitated its introduction to the park and has since failed to eradicate it⁴⁷³). Tapu areas, particularly the peaks of the three maunga, have also not been adequately protected from the culturally insensitive actions of visitors to the park.⁴⁷⁴ Ruapehu has also been over-developed for commercial and recreational purposes, without the consultation of Te Korowai o Wainuiārua, to the point of significant environmental degradation.⁴⁷⁵
- 16.21. Although the United Nations Educational, Scientific and Cultural Organization recognised the cultural and religious significance of the maunga to Māori when it was granted dual World Heritage status in 1993⁴⁷⁶, for Te Korowai o Wainuiārua the

⁴⁶⁸ During the 1950s and 1960s the Crown purchased land from the Rangataua North, Raetihi and Urewera blocks specifically for inclusion in the Tongariro National Park (Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 595). In the 1970s, further large areas of land were added to the park (Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report*, p. 595). [Fascinating Facts about Tongariro National Park](#) (accessed 7 March 2016), Department of Conservation;

⁴⁶⁹ Brief of Evidence of Robert (Boy) Cribb (2005), Wai 1130, D027, para. 10.6

⁴⁷⁰ Closing Submissions on behalf of the people within the embrace of Uenuku and their constituent hapū and whānau (Wai 1130, 3.3.37), paras. 3.9-10, 20.5, 20.8, 20.21, 21.5; Closing Submissions of Counsel [Tamahaki] (Wai 1130, 3.3.40), paras. 699, 705; Generic Submissions Relating to the 'Gift' of the Peaks and the Establishment of the Tongariro National Park (Wai 1130, 3.3.23)

⁴⁷¹ National Parks Act 1952 (1952 No 54), s54; [Ngāti Rangi Deed of Settlement](#) (2018), para. 3.81

⁴⁷² Brief of Evidence of Robert (Boy) Cribb (2005), Wai 1130, D027, para. 10.3

⁴⁷³ [Ngāti Tūwharetoa Deed of Settlement](#) (2017), para. 2.206 – this is a 'lost footnote', it's probably from the Waitangi Tribunal

⁴⁷⁴ [Ngāti Tūwharetoa Deed of Settlement](#) (2017), para. 2.206

⁴⁷⁵ [Ngāti Tūwharetoa Deed of Settlement](#) (2017), para. 2.206

⁴⁷⁶ UNESCO [Tongariro National Park](#)

establishment of the Tongariro National Park has left their people feeling as though the 'head has been taken away from the body'.⁴⁷⁷

17. The Aotea District Maori Land Board and Vested Lands

- 17.1. The last decade of the nineteenth century saw increasing Māori protest about the loss of their lands and exclusion from its management.⁴⁷⁸ Crown officials attended many hui in Whanganui in these years to discuss with Māori their land management and how the Crown could facilitate the protection of remaining Māori land.⁴⁷⁹ In 1900, the Crown promoted the Maori Land Administration Act to reserve the remaining Māori land for its better settlement, utilisation, and administration.⁴⁸⁰
- 17.2. The 1900 Act provided for the establishment of Māori land councils to administer Māori land in a particular district.⁴⁸¹ In 1901, the Aotea District Maori Land Council was established, which included most of the Whanganui region, except for the far north.⁴⁸² The Council had seven members; the president and another member were European, three elected members were Māori, and two Crown-appointed members were also Māori.⁴⁸³ The five Māori members remained on the Council for four years.⁴⁸⁴ Māori owners within the district had the option to vest their lands in the Council.⁴⁸⁵ The Council could lease, partition, manage, improve or use the land as security for a loan. However, the land could not be sold.⁴⁸⁶
- 17.3. In March 1902, members of Te Korowai o Wainuiārua met with the Native Minister and president of the Council at Hiruharama and agreed in principle to vest 11,984 acres of the Waharangi block in the proposed Council.⁴⁸⁷ A period of signature collection followed this for the 1,007 owners of the Waharangi No. 1, 2, 4, and 5 blocks.⁴⁸⁸ The Waharangi blocks were vested in the Council in August 1903.⁴⁸⁹ The vesting deeds had a standard clause which allowed the land be leased in perpetuity.⁴⁹⁰

⁴⁷⁷ Paraphrased from Brief of Evidence of Robert (Boy) Cribb (2005), Wai 1130, D027, para. 7

⁴⁷⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.664

⁴⁷⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.664

⁴⁸⁰ Maori Land Administration Act 1900, Preamble

⁴⁸¹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.668

⁴⁸² Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, pp.669-670; Loveridge, D. (1996) *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900 to 1952* (Wai 1200, A60), p.32

⁴⁸³ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.669

⁴⁸⁴ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.670

⁴⁸⁵ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, pp.668-669; Walzl, T. (2004) *Whanganui Land: 1900-1970* (Wai 903, A51), p.63

⁴⁸⁶ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.669

⁴⁸⁷ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.673; Walzl, T. (2004) *Whanganui Land: 1900-1970* (Wai 903, A51), pp.62-63

⁴⁸⁸ Walzl, T. (2004) *Whanganui Land: 1900-1970* (Wai 903, A51), pp.63-64

⁴⁸⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.902

⁴⁹⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.908

However, the owners of the Waharangi block wrote onto the deed that the maximum length of lease would be 42 years.⁴⁹¹

- 17.4. In 1903, the Council advertised some of the vested land blocks for one 21-year lease, with the right to renew the lease for a further 21 years.⁴⁹² However, the Aotea District Maori Land Council received very few applications for leases on these terms.⁴⁹³ Following this failure to lease the vested lands, the Crown and European members of the Council attempted to pressure the Māori members to allow the lands to be vested as perpetually renewable leases.⁴⁹⁴ However, the Māori members represented a majority and would not agree to lease the land in perpetuity, knowing that the owners would never approve of this.⁴⁹⁵ The Council agreed, instead, to offer the lessees compensation for any improvements made to the land to be paid by the owners upon resumption of the land.⁴⁹⁶ If the compensation could not be paid by the owners at the conclusion of the lease, the Council agreed that the land would be leased again for a further 21-year term.⁴⁹⁷ At the same time, however, European members of the Council believed that the owners would not be able to pay the compensation required, and commented at the time that this made the leases, in effect, perpetual.⁴⁹⁸ However, in 1907 the Crown promoted legislation providing that the vested lands should be returned to Māori control by 1957.⁴⁹⁹
- 17.5. In 1905, the Crown promoted the Maori Land Settlement Act, which abolished the councils and provided instead for Māori land boards. In March 1906, the Aotea District Maori Land Board was established with only three Crown-appointed members, just one of whom was required to be Māori.⁵⁰⁰ After 1913, the Crown did not appoint any Māori members to the Board.⁵⁰¹ The Board inherited the lands which had been vested in the Council, including the Waharangi block.⁵⁰²
- 17.6. In 1907, the owners of the Raetihi block vested 5,200 acres in the Board, and between 1908 and 1910 the Board leased Te Korowai o Wainuiārua lands in the Raetihi and Waharangi blocks to European settlers on the terms agreed to in 1904.⁵⁰³ The amount

⁴⁹¹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.908

⁴⁹² Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.910

⁴⁹³ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.910

⁴⁹⁴ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.921

⁴⁹⁵ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.914; Horan, M. (2006) *The Management of Vested Lands in the Aotea District, 1902-1913* (Wai 903, A101), para.109, p.57

⁴⁹⁶ Extract from Aotea District Maori Land Board Minute Book, No.1 page 218', 21 July 1904, Whanganui, in Horan, M. (2006) *Document Bank for The Management of Vested Lands in the Aotea District, 1902-1913*, Volume 18 (Wai 903, A101(r)), p.36

⁴⁹⁷ Extract from Aotea District Maori Land Board Minute Book, No.1 page 218', 21 July 1904, Whanganui, in Horan, M. (2006) *Document Bank for The Management of Vested Lands in the Aotea District, 1902-1913*, Volume 18 (Wai 903, A101(r)), p.36

⁴⁹⁸ 6 Ju11904, Fisher to Sheridan, MA13/56c, Arch. NZ. Wgtn, in Walzl, T. (2004) *Supporting Papers for Whanganui Land: 1900-1970* (Wai 903, A051(f)), p.2219

⁴⁹⁹ Bassett, H. and Kay, R. (2004) *Whanganui Leased Vested Lands c. 1951-2000* (Wai 903, A062), p.25; Native Land Settlement Act 1907, s.28

⁵⁰⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, pp.676, 679

⁵⁰¹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.679

⁵⁰² Horan, M. (2006) *The Management of Vested Lands in the Aotea District, 1902-1913* (Wai 903, A101), para.142, p.73

⁵⁰³ Horan, M. (2006) *The Management of Vested Lands in the Aotea District, 1902-1913* (Wai 903, A101), para.143, 145 pp.74-75; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.902

of rent to be paid to the owners of the land for the first 21-year term was set at five per cent of the value of the land.⁵⁰⁴

- 17.7. In 1909, the Native Land Act empowered the Native Minister to direct the Board to create a sinking fund from a portion of the lease revenue to assist the owners with paying the compensation at the end of the lease period.⁵⁰⁵ The Native Minister did not make such a direction during the first 21-year lease due to the need to pay back debt incurred from the establishment of infrastructure on the land.⁵⁰⁶
- 17.8. Between 1929 and 1931, the Board renewed the 21-year leases on terms that led to the owners' annual rental income substantially declining. The rent for the second 21-year lease was based on the value of the land minus the value of improvements.⁵⁰⁷ The improvements were valued at what they would cost when the lease was renewed, but many of the improvements, such as clearing the land, had been carried out decades earlier, at the beginning of the lease period.⁵⁰⁸ This led to the value of improvements being set as higher than their cost and, as a result, the rent received by the Te Korowai o Wainuiārua owners decreased by almost 30 per cent in their second lease period.⁵⁰⁹
- 17.9. The decline in rentals and the absence of a sinking fund compromised the ability of the owners to pay the compensation for improvements due at the end of the lease and recover control of their land. The Native Minister did not direct the Board to create a sinking fund in the second lease term due to the poor economic conditions in the 1930s and 1940s.⁵¹⁰ Crown officials were aware that the owners would not be able to reoccupy the lands at the end of the second lease and discussed options to remedy this in the 1930s, but ultimately, the Crown took no action to prevent this outcome.⁵¹¹ In 1953, the Crown promoted the Maori Land Amendment Act which discontinued the boards and transferred their powers and duties to the Māori Trustee.⁵¹² Despite the provision in the Native Lands Act 1907 for the vested lands to return to their owners' control no later than 1957, Te Korowai o Wainuiārua land, apart from three blocks of

⁵⁰⁴ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p.926

⁵⁰⁵ Native Land Act 1909, s.263, p.220; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p.925

⁵⁰⁶ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p.926

⁵⁰⁷ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp.927-928

⁵⁰⁸ *Report of Royal Commission appointed to inquire into and report upon matter and questions relating to certain leases of Maori lands vested in Maori Land Boards*, AJHR 1951, G-5, p.25 in Bassett, H. and Kay, R. (2004) *Whanganui Leased Vested Lands c. 1951-2000: Document Bank* (Wai 903, A062(a)), p.17

⁵⁰⁹ *Report of Royal Commission appointed to inquire into and report upon matter and questions relating to certain leases of Maori lands vested in Maori Land Boards*, AJHR 1951, G-5, p.25 in Bassett, H. and Kay, R. (2004) *Whanganui Leased Vested Lands c. 1951-2000: Document Bank* (Wai 903, A062(a)), p.17; Walzl, T. (2004) *Whanganui Land: 1900-1970*, Volume One (Wai 903, A051), p.377

⁵¹⁰ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp.936-8

⁵¹¹ Letter from Under-Secretary to the Hon. Native Minister, 7 December 1926, in Walzl, T. (2004) *Supporting Papers for Whanganui Land: 1900-1970*, Volume One (Wai 903, A051(a)), p.74; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp.930-932

⁵¹² Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume two, p.681

land, remained vested in the Māori Trustee and occupied by the lessees until they were amalgamated into the Ātihaui-Whanganui Incorporation in 1970.⁵¹³

18. The Whanganui River Scenic Reserves

Te Korowai o Wainuiārua and the Whanganui River

- 18.1. The iwi of Te Korowai o Wainuiārua have strong associations with the Whanganui River and its tributaries. The source of the Whanganui River connects the iwi of Te Korowai o Wainuiārua with their tūpuna of te Kāhui Maunga – Tongariro, Ruapehu and Ngauruhoe.⁵¹⁴
- 18.2. The records of early European travellers show that the stretch of the River that ran through the rohe of Te Korowai o Wainuiārua was densely settled, with many fortified villages positioned at the top of steep hills 500-600 feet above the river for security reasons. There are many pā sites on the Whanganui River with which the iwi of Te Korowai o Wainuiārua have close associations.⁵¹⁵ Iwi and hapū managed sections of the river in accordance with Māori custom in order to maintain fish stocks, to maintain water purity, and to avoid any appearance of greed or disrespect.⁵¹⁶ In the 1840s, these river settlements were described as having cultivations, springs, woods of timber, and “ample room to support many hundreds of people when compelled to take refuge there”.⁵¹⁷

Scenic Reserves

- 18.3. In the decades around the turn of the twentieth century, the Crown sought to preserve the scenery of the Whanganui River and compulsorily took significant areas of land for this purpose. The Crown was motivated by growing public concern that the landscape in the Whanganui region was being lost to pastoralism and agriculture.⁵¹⁸ In 1891, the Whanganui River Trust Act provided for the establishment of the Whanganui River Trust to promote navigability and scenery preservation.⁵¹⁹ The Act was not to “affect any rights conferred upon the Natives by the Treaty of Waitangi.”⁵²⁰
- 18.4. In 1892, the Trust established the Whanganui River Trust Public Domain for “the conservation of natural scenery”.⁵²¹ The domain was a mile-wide strip totalling around 33,000 acres along each side of the River, from its confluence with the Tangarakau River to Taumarunui.⁵²² It was created from Crown land purchased in the Waimarino,

⁵¹³ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp.942, 944

⁵¹⁴ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.5

⁵¹⁵ See map in Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.37

⁵¹⁶ Waitangi Tribunal, *Whanganui River Report*, 19 [WT wording].

⁵¹⁷ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, volume one (Wai 903), p.83

⁵¹⁸ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p.757

⁵¹⁹ Whanganui River Trust Act, 1891, section 9; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 757

⁵²⁰ Whanganui River Trust Act, 1891, section 11; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 757

⁵²¹ Whanganui River Trust Act, 1891, s 9; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 758

⁵²² Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 759

Kirikau, Rētāruke, Ōpatu, Raoraomouku, and Mangapukatea blocks, and included kāinga on Crown land at Tieke, Kirikiriroa, and Mangapāpapa.⁵²³ The majority of this land was eventually gazetted as scenic reserves in 1958.⁵²⁴

- 18.5. By 1903, the Trust had made the River navigable by steamer as far as Taumarunui.⁵²⁵ However, soil erosion threatened the maintenance of the River's navigability as a commercial route.⁵²⁶ The Crown envisioned that scenery preservation would help to combat this, and that the subsequent potential for tourism would have economic benefits.⁵²⁷
- 18.6. In late 1904 and early 1905, the newly established Scenery Preservation Commission travelled up the Whanganui River to Pīpīriki, choosing potential sites to be brought under the provisions of the Act.⁵²⁸ In 1906, the Commission was replaced with the Scenery Preservation Board.⁵²⁹
- 18.7. In 1907, the Crown used the provisions of the Public Works Act 1905 to compulsorily acquire 21 acres of land near Pīpīriki, including the Waiora mineral springs.⁵³⁰ This site was sacred to the iwi of Te Korowai o Wainuiārua as a place of healing and cooking.⁵³¹ The taking was instigated by a local tourist operator to whom the Crown leased the land to develop the springs into a tourist attraction.⁵³² The iwi of Te Korowai o Wainuiārua were not consulted and though the 232 owners sought over £260 in compensation, they received only £45.⁵³³
- 18.8. In 1908, the Scenery Preservation Board recommended the Crown reserve 15,356 acres of Māori land along the River for scenic reserves; it described the Māori owners of river-front land as one of the River's scenic attractions.⁵³⁴ The proposed scenic reserves included land which had been reserved for the iwi of Te Korowai o Wainuiārua from the Crown purchases of the previous century, including the entire River frontage of the Waimarino B reserve.⁵³⁵ These scenic reserves would be additional to the 33,000-acre public domain established in 1892.⁵³⁶

⁵²³ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 758.

⁵²⁴ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp. 758, 785.

⁵²⁵ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 758.

⁵²⁶ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 757.

⁵²⁷ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 757, 757.

⁵²⁸ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 762.

⁵²⁹ Marr, Cathy (1995), *Whanganui Land Claims Historical Overview* (Wai 903, A13), p. 84.

⁵³⁰ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 768.

⁵³¹ Southen, Wai Wiari (2008) Brief of Evidence (Wai 903, E12), p. 7; Public Works Act 1905, s 14.

⁵³² Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 768.

⁵³³ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 768; Walzl, T. (2004), *Whanganui Land 1900-1970* (Wai 903, A51), p. 198.

⁵³⁴ 'Scenery Preservation Report', AJHR, 1908, C-6, p. 14; Marr, Cathy (1995), *Whanganui Land Claims Historical Overview* (Wai 903, A13), p. 84; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 764.

⁵³⁵ Marr, Cathy (1995), *Whanganui Land Claims Historical Overview* (Wai 903, A13), p. 84.

⁵³⁶ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 759.

- 18.9. In 1908, Cabinet approved the Crown to spend £8,000 pounds to purchase 19,000 acres along the Whanganui River.⁵³⁷ Instead of negotiating the purchases with the owners, however, the Crown elected to compulsorily acquire Māori land and pay compensation.⁵³⁸ In 1911, the Crown compulsorily acquired 54.5 acres from the Popotea block, 429.75 acres from the Waimarino block, 1,740 acres from the Waharangi block (the Crown's largest taking), and 683.5 acres in the Whakaihuwaka block, despite the letters of complaint from Eruera Hurutara who lived on some of the land.⁵³⁹ As a result of the Crown acquiring land adjoining the Whanganui River, the legal principle (by which title to a land bounded by a river extends to the mid-line of a river) potentially became applicable in the Crown's favour.⁵⁴⁰
- 18.10. Iwi of Te Korowai o Wainuiārua strongly protested the compulsory takings of their land for scenery by felling or burning off forest.⁵⁴¹ They also lodged petitions supported by many signatories, such as a 1912 petition signed by 424 Whanganui Māori, including Te Korowai o Wainuiārua tūpuna.⁵⁴² In 1913, Eruera Hurutara and nine others petitioned the Crown, stating that they were still running stock and living on a papakāinga on the Whakaihuwaka block which had been included in the Crown's 1911 compulsory acquisition.⁵⁴³ By 1914, there was near universal Māori opposition to the Crown's compulsory acquisitions of scenic reserves along the Whanganui River.⁵⁴⁴ Most of the owners felt it should be up to them to decide which land was suitable for scenic preservation and which would be used for occupation or farming.⁵⁴⁵ On 11 November 1916, the Crown compulsorily acquired 478 acres from the iwi of Te Korowai o Wainuiārua in the Taumatamāhoe block, and 198 further acres from the Waimarino block.⁵⁴⁶
- 18.11. In November 1916, the Crown appointed a Royal Commission to investigate and report on whether any of the existing scenic reserves should be cancelled and what portion of the proposed scenic reserves should be acquired and set apart.⁵⁴⁷ The Commission held hearings along the River, including at Pīpīriki on 7 and 9 December, to hear Whanganui Māori grievances, which included lack of consultation on the land to be taken, lack of compensation, and arbitrary procedures.⁵⁴⁸ Many witnesses from

⁵³⁷ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 769

⁵³⁸ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 769

⁵³⁹ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp.773, 779

⁵⁴⁰ Court of Appeal Wellington (1962) *In the Bed of the Whanganui River*, NZLR 600

⁵⁴¹ Walzl, T. (2004), *Whanganui Land 1900-1970* (Wai 903, A51), pp. 201, 206, 210-211; Marr, Cathy (1995), *Whanganui Land Claims Historical Overview* (Wai 903, A13), p. 89; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 771

⁵⁴² Walzl, T. (2004), *Whanganui Land 1900-1970* (Wai 903, A51), pp. 210-214; Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 773.

⁵⁴³ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 773

⁵⁴⁴ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 774

⁵⁴⁵ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 774

⁵⁴⁶ *New Zealand Gazette*, no.124, pp.3424-3425

⁵⁴⁷ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 774; Marr, Cathy (1995), *Whanganui Land Claims Historical Overview* (Wai 903, A13), p. 85; Hodge, Robyn (2002), *The Scenic Reserves of the Whanganui River 1891 – 1986* (Wai 903, A34), p.93

⁵⁴⁸ Waitangi Tribunal (1999), *The Whanganui River Report*, p. 191; Hodge, Robyn (2002), *The Scenic Reserves of the Whanganui River 1891 – 1986* (Wai 903, A34), p.94

iwi of Te Korowai o Wainuiārua were generally willing for the Crown to reserve land as scenic reserves, particularly in inaccessible areas, but wanted the Crown to return urupā, landing sites, and good workable land for stock.⁵⁴⁹

- 18.12. The Commission recommended that almost all of the existing and proposed scenic reserves should be retained by the Crown, and that the Whanganui River Trust Public Domain should be vested in the Crown.⁵⁵⁰ However, it also recommended the Crown re-draw the boundaries of some existing and proposed reserves in order to restore or exclude sections of land holding kāinga and urupā to the Māori owners which amounted to 850 acres.⁵⁵¹ One of these sections was around 25 acres from the proposed Kahura Scenic reserve, which contained the Tieke kainga and Ōkirihaui urupā.⁵⁵² The Crown did not act on the vast majority of the Commission's recommendations relating to the return of land to Māori owners.⁵⁵³
- 18.13. In January 1917, rather than returning land as the Commission recommended, the Crown compulsorily acquired an additional scenic reserve of 219.5 acres in the Whakaihuwaka block from the iwi of Te Korowai o Wainuiārua.⁵⁵⁴ Between 1907 and 1917, the Crown had compulsorily acquired almost 6,700 acres of the 19,000 Cabinet-approved acres of Māori land for scenery preservation purposes.⁵⁵⁵
- 18.14. The Crown did not provide for the inclusion of Māori in scenic reserve management for the first fifty years after their creation.⁵⁵⁶ The iwi of Te Korowai o Wainuiārua had no avenue to ensure their interests were protected which was a matter of concern for Te Korowai o Wainuiārua iwi.⁵⁵⁷ In 1958, Whanganui Māori gained a single representative on the newly formed Wanganui River Scenic Board which managed all of the reserves taken for scenery preservation purposes and the former Public Domain established in 1892.⁵⁵⁸ The iwi of Te Korowai o Wainuiārua did not consider that their involvement was sufficient and this situation continued until the reserves were incorporated into the Whanganui National Park in the 1980s.

⁵⁴⁹ Hodge, Robyn (2002), *The Scenic Reserves of the Whanganui River 1891 – 1986* (Wai 903, A34), pp.103-105

⁵⁵⁰ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 777

⁵⁵¹ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 777; Walzl, T. (2004), *Whanganui Land 1900-1970* (Wai 903, A51), p. 216.

⁵⁵² Hodge, Robyn (2002), *The Scenic Reserves of the Whanganui River 1891 – 1986* (Wai 903, A34), pp. 131, 140; Marr, Cathy (1995), *Whanganui Land Claims Historical Overview* (Wai 903, A13), pp. 91-92.

⁵⁵³ Waitangi Tribunal, *The Whanganui River Report* (1999), (Wai 167), p.191

⁵⁵⁴ *New Zealand Gazette*, No.8, p.180

⁵⁵⁵ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p.779

⁵⁵⁶ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p.782

⁵⁵⁷ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, pp. 782-783; 28 September 2009, Closing submission of on behalf of Tamahaki Council of Hapū, Tamahaki Incorporated Society and the descendants of Uenuku Tuwharetoa (Wai 903, 3.3.85), p. 120; 28 September 2009, Closing submission of on behalf of Tamahaki; Uenuku; Ngāti Hinekura; Ngāti Rangitautahi; Tamakana; Ngāti Ruru; Ngāti Pare and Ngāti Tumanuka (Wai 903, 3.3.89), p. 3; 28 September 2009, Closing submission of on behalf of the peoples within the embrace of Uenuku (Wai 903, 3.3.108), pp. 50-51.

⁵⁵⁸ Waitangi Tribunal (2015), *He Whiritaunoka: Whanganui Land Report*, volume two, p. 785.

19. The Whanganui River Cases and the Tongariro Power Development Scheme

The Whanganui River Case and Te Korowai o Wainuiārua

- 19.1. The iwi of Te Korowai o Wainuiārua exercised rights and responsibilities in relation to the Whanganui River according to their tikanga. This was at odds with the principles of English Common Law, such as the *ad medium filum aquae* doctrine, which became part of New Zealand law in 1858.⁵⁵⁹ Subsequent legislation, such as the Coal-mines Act Amendment Act 1903, vested the ownership of the beds of 'navigable' rivers in the Crown.
- 19.2. In 1937, following decades of protest and petitions, Whanganui Māori applied to the Native Land Court to investigate what they considered to be their customary ownership of the Whanganui River.⁵⁶⁰ The Whanganui River case began at Whanganui on 3 November 1938. At the opening of the case, counsel for the claimants stated "the only question being dealt with at this stage of the hearing is whether the Natives own the bed of the river at the time of the Treaty of Waitangi" and that the applicant "is not making any claim for any particular hapu or individual".⁵⁶¹
- 19.3. The iwi of Te Korowai o Wainuiārua were not directly represented at the investigation of title hearings and had no ability to influence the outcome of the case or give evidence as to customary law, use, and management of the river. In 1939 the Court found that Whanganui Māori owned the riverbed in accordance with their customs and usages.⁵⁶² The litigation over the bed of the Whanganui River was complicated by the issue of whether there was a 'tribal' title to the whole of the river or if the Native Land Court's award of a land block extinguished the customary title to the riverbed within that block. At the time of the hearings the anthropological expert evidence that would occur in a contemporary case relating to Māori claims to a waterway did not exist. Had it not been for the difficulties created by the Native Land Court's title awards to riverine blocks, the issue of claims to the bed of the Whanganui River would have been much easier to resolve.
- 19.4. In 1939, the Crown appealed the Native Land Court decision to the Native Appellate Court and the case was heard in 1944.⁵⁶³ The issue before the Appellate Court was whether native custom recognised exclusive native ownership over the bed of the Whanganui River.⁵⁶⁴ The Chief Judge affirmed the provisional or preliminary determination of the Native Land Court.⁵⁶⁵

⁵⁵⁹ Lewis Evans, 'Law and the economy - Setting the framework', Te Ara - the Encyclopedia of New Zealand, <http://www.TeAra.govt.nz/en/law-and-the-economy/page-1> (accessed 11 March 2020)

⁵⁶⁰ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.193-194

⁵⁶¹ Native Land Court (1939) Whanganui Minute Book, No.100, p.165 (3 Nov 1938)

⁵⁶² Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.203

⁵⁶³ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.205

⁵⁶⁴ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.205

⁵⁶⁵ Appellate Court (1944) Wellington ACMB, No.8, p.36 in Counsel for claimants (undated) *Index, Volume 1: Opening Submissions of Counsel for Claimants* (Wai 167, A77(vol.1, no.3)), pp.1-13

- 19.5. In 1949, the Crown took proceedings in the Supreme Court to quash the decision of the Native Appellate Court. The Crown argued that customary title to the river bed had been extinguished *ad medium filum aquae* and, alternatively, that the Crown owned the bed of the Whanganui River in any event as it was a navigable waterway under the 1925 Coal Mines Act (originally the 1903 Coal-mines Act Amendment).⁵⁶⁶ The Supreme Court found that the Crown owned the bed of navigable rivers through its legislation, making it unnecessary to decide if the *ad medium filum aquae* rule applied.⁵⁶⁷
- 19.6. In 1950, the Crown appointed a Royal Commission to inquire further into Māori customary ownership of the riverbed and consider whether compensation was payable.⁵⁶⁸ The Commission upheld the claims made by Whanganui Māori to ownership of the riverbed and recommended the payment of compensation for gravel extraction.⁵⁶⁹ Attempts to negotiate compensation in 1951 were inconclusive.
- 19.7. In 1951, the Crown promoted legislation in order to refer the Whanganui River issue to the Court of Appeal.⁵⁷⁰ In 1955, the Court of Appeal released its decision that Māori were the customary owners of the Whanganui River at 1840.⁵⁷¹ It also recommended the Crown authorise the Māori Appellate Court to consider whether pre-1903 Native Land Court grants of title to riparian land resulted in rights to the centre line of the riverbed under the *ad medium filum aquae* rule.⁵⁷² The 1955 Court of Appeal decision had the effects that further evidence was required and legislation was enacted that referred the Whanganui River issue to the Māori Appellate Court.⁵⁷³ In 1958, the Māori Appellate Court in turn held that any ancestral right to the bed of the Whanganui River was not separate or different from that to riparian lands.⁵⁷⁴
- 19.8. In 1962, the Court of Appeal considered the issue again and found that, according to the *ad medium filum aquae* rule, customary ownership of the riverbed had been extinguished when the Native Land Court granted titles to the riparian land.⁵⁷⁵ The Crown adopted these findings and declined to provide remedy to Whanganui Māori.⁵⁷⁶ In 1977 Whanganui Māori petitioned the Queen to remove the Crown's title to the riverbed and were declined in 1983.⁵⁷⁷

⁵⁶⁶ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.210-211

⁵⁶⁷ High Court (1950) *The King v Morison* NZLR 247 in Counsel for claimants (undated) *Index, Volume 1: Opening Submissions of Counsel for Claimants* (Wai 167, A77(vol.1, No.4)); Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.211

⁵⁶⁸ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.212

⁵⁶⁹ Royal Commission (1950) *Report of Royal Commission appointed to inquire into and report on claims made by certain Maoris in respect of the Wanganui River*, AJHR G-2

⁵⁷⁰ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.220

⁵⁷¹ Court of Appeal (1955) *Re the Bed of the Wanganui River*, NZLR 419 (CA) in 247 in Counsel for claimants (undated) *Index, Volume 1: Opening Submissions of Counsel for Claimants* (Wai 167, A77(vol.2, no.7))

⁵⁷² Maori Purposes Act 1954, s.6; Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.220-221, 224

⁵⁷³ Maori Purposes Act 1954, s.6; Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.220-221, 224

⁵⁷⁴ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.229

⁵⁷⁵ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.230

⁵⁷⁶ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.238-239

⁵⁷⁷ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.239-241

The Tongariro Power Development Scheme

- 19.9. From 1955, the Crown began developing plans to divert almost all of the water that flows from te kāhui maunga for hydro-electric power generation in response to a post-World War Two energy shortage.⁵⁷⁸ At the time of the construction of the Tongariro Power Development there was no requirement to obtain resource consents as is the case under the Resource Management Act 1991.⁵⁷⁹ In 1958, without giving any notice to the iwi of Te Korowai o Wainuiārua, the Crown issued an Order in Council authorising it to take water from the Whanganui, Tokaanu, Tongariro, Rangitikei, and Whangaehu Rivers and their tributaries.⁵⁸⁰ Between 1955 and 1964, the Crown held four hui with another iwi but did not include or consult the iwi of Te Korowai o Wainuiārua.⁵⁸¹ In 1964, construction began for the Western Diversion which would divert water from the Whanganui River.⁵⁸² Construction of the Eastern Diversion began in 1969 which diverted the waters of the Whangaehu River.⁵⁸³
- 19.10. As a result of this project, a significant quantity of the water flow from the headwaters of the Whanganui and Whangaehu Rivers was directed northwards into Lake Taupō and as a consequence into the Waikato River.⁵⁸⁴ The effects of the Tongariro Power Development on water quantity and water quality levels continue to be significant.⁵⁸⁵ The iwi of Te Korowai o Wainuiārua consider that they have little voice in the management of the Whanganui River.

20. The Whanganui National Park

- 20.1. The Whanganui National Park was established in 1986 and covers 742 km² of the central North Island in a broad arc between Taumarunui and Wanganui. Some stretches of the Whanganui River are wholly within the park; in other places the river forms the park boundary. While the park includes substantial areas of land some distance from the Whanganui River, the river itself is the park's principal feature and draws tourists from both New Zealand and overseas.

⁵⁷⁸ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report* (Wai 1130), p.1073

⁵⁷⁹ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report* (Wai 1130), p.1143

⁵⁸⁰ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), p.235

⁵⁸¹ Walzl, T. (2005) *Hydro-electricity Issues: the Tongariro Power Development Scheme* (Wai 1130, A008), p. 18, para. 35; *Tongariro Development – Māori Land Owners: Notes on Meeting Held at Tokaanu, 15 April 1964* in Works Consultancy File PW 92/12/67/6 Part 1 (Wai 084, A007), pp. 205-07; Horan, M. (2005) *The Tongariro Power Development: Selected Issues* (Wai 1130, A051), pp. 32-33; Waitangi Tribunal (1995) *Turangi Township Report*, pp. 38-39, 336

⁵⁸² Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report* (Wai 1130), p.1288

⁵⁸³ Waitangi Tribunal (2013) *Te Kāhui Maunga National Park District Inquiry Report* (Wai 1130), p.1135

⁵⁸⁴ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.233-234

⁵⁸⁵ Waitangi Tribunal (1999) *The Whanganui River Report* (Wai 167), pp.233-238; Walzl, T. (2006) *Environmental Impacts of the Tongariro Power Development Scheme* (Wai 1130, E012), p. 229

- 20.2. Large-scale land purchasing began in the late nineteenth century when the Crown acquired land in, among others, the Waimarino, Taumatamāhoe and Whakaihuwaka blocks that are now wholly or partly within the boundaries of the Whanganui National Park.⁵⁸⁶ Before the park's creation, members of the hapū and iwi of Te Korowai o Wainuiārua made use of unoccupied Crown land within their area of interest.⁵⁸⁷ They

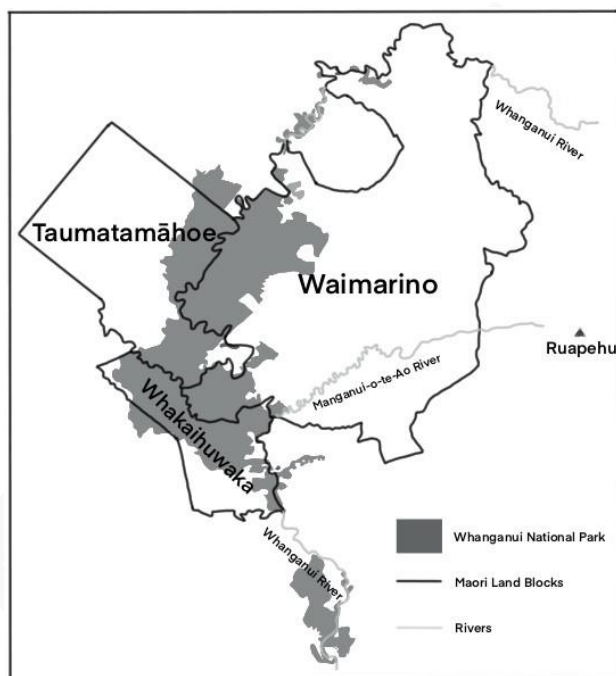


Figure 4: Whanganui National Park and Land Blocks Affected

cultivated produce; hunted pigs, goats, and deer; harvested kererū; and fished for eels, whitebait and trout.⁵⁸⁸ The hapū and iwi of Te Korowai o Wainuiārua have historically undertaken and continue to carry out these activities as part of their customary management of natural resources. Despite shifts in ownership, these changes have not severed the connections between Te Korowai o Wainuiārua and the lands now within the National Park.⁵⁸⁹

- 20.3. The Whanganui River and its tributaries are central to the identity and way of life of the hapū and iwi of Te Korowai o Wainuiārua and feature prominently in many historical traditions and narratives. Te Korowai o Wainuiārua are pleased to share the beauties of their rohe, and outside observers have long recognized the picturesque qualities of the Whanganui River.⁵⁹⁰

⁵⁸⁶ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, pp. 1205, 1207

⁵⁸⁷ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, pp. 1205, 1207

⁵⁸⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1207; Marr, C. (2003) *Crown Impacts on Customary Maori Authority over the Coast, Inland Waterways (other than the Whanganui River) and associated mahinga kai in the Whanganui Inquiry District* (Wai 903, A036), pp.125-126, 225

⁵⁸⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land report*, Volume Three, p. 1207.

⁵⁹⁰ William Swainson, *Auckland, the Capital of New Zealand and the Country Adjacent* (London: Smith, Elder & Co., 1853) p. 118. Swainson observed that “the descent of the Whanganui is probably the most enjoyable of New Zealand river

- 20.4. Crown officials had considered the area for a national park beginning in the 1940s, but it was not until 1980 that the Crown began a serious assessment based on the region's outstanding visual appeal and distinctive Māori cultural history.⁵⁹¹ A June 1981 Department of Lands study recommended using existing scenic reserves and other Crown land as the basis for a new national park.⁵⁹² Despite ongoing demonstrations by the hapū and iwi of Te Korowai o Wainuiārua about their interests in the Whanganui River and its tributaries, the Crown largely dismissed Māori concerns until the early 1980s.⁵⁹³ Between February 1983 and December 1985, the Crown met with Māori several times on marae in the Whanganui region to discuss the proposed park.⁵⁹⁴
- 20.5. At a hui in November 1983, a Crown official noted the park would be 'a very "[M]aori" national park' and that a proposed nine-member advisory committee nominated by Whanganui Māori could instil a large influence of '[M]aoriness' in the management of the park.⁵⁹⁵ Iwi and the Crown, however, had different interpretations of what constituted a 'Maori national park' in terms of consultation, the statutory responsibilities of advisory committees, iwi participation, and employment.⁵⁹⁶
- 20.6. In February 1984, at a hui with the Wellington Commissioner of Crown Lands, Māori of the Whanganui River agreed in principle to establishing a national park.⁵⁹⁷ Their agreement was conditional upon special legislation for managing the river, iwi representation through three permanent Māori members on the management board, an entirely Māori advisory committee (later named the Whanganui River Māori Trust

travelling." For an account of Maori perspectives about landscape conservation and treatment of sites of preservation see Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), pp.6-7

⁵⁹¹ Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), p.24. Crown officials engaged in sporadic discussion about establishing a national park from the 1940s. Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), p.21

⁵⁹² Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), p.24. Maori land was excluded from inclusion in park in June 1982. Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), p.28

⁵⁹³ Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), pp.31-32

⁵⁹⁴ Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), pp.33-34; McBurney, P. (2007) *A History of the Whanganui River Maori Trust Board: Claimant Perspective Report* (Wai 903, A133), p.30; 'Whanganui River National Park Proposal Submission [Hearing]' in *Brief of Evidence of Archie Te Atawhai Tairaoa: Index, Selected Documents – Volume 1* (Wai 167, B8(a)), p.92; Minutes of Hui with Crown officials held at Ngapuwaiwaha Marae, 23 February 1984. Research

Committee, Whanganui River Trust Minute Book in McBurney, P. (2007) *A History of the Whanganui River Maori Trust Board: Claimant Perspective Report* (Wai 903, A133), p.28; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, pp.1212, 1219

⁵⁹⁵ 'Whanganui River National Park Proposal Submission [Hearing]' in *Brief of Evidence of Archie Te Atawhai Tairaoa: Index, Selected Documents – Volume 1* (Wai 167, B008(a)), pp.94, 93; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1211

⁵⁹⁶ Hodge, R. (2003) *Whanganui National Park: Late 1970s–2000* (Wai 903, A043), pp.81-82

⁵⁹⁷ McBurney, P. (2007) *A History of the Whanganui River Maori Trust Board: Claimant Perspective Report* (Wai 903, A133), pp.27-28

Board), and assurance that designating the park would in no way prejudice Māori claims to land or ownership of the bed of the Whanganui River.⁵⁹⁸

- 20.7. In its initial plan for the national park, the Crown considered including the riverbed within the park boundary, but by March 1985 had decided to exclude it.⁵⁹⁹ While not opposed to the idea of a national park, the hapū and iwi of Te Korowai o Wainuiārua opposed including the riverbed as part of the park before their claims to ownership and management of the river had been resolved. This apprehension stemmed from concern that if the river were to be included it would be the end of their river claim.⁶⁰⁰
- 20.8. A report about the park issued in March 1984 referred to historic and contemporary Māori associations with the area. Despite repeated requests by iwi regarding input into tourism and commercial activities, the report failed to emphasise the '[M]aoriness' of the park.⁶⁰¹ The following month, a single Māori representative was appointed to the Wellington National Parks and Reserves Board – the entity with ultimate responsibility for managing the park.⁶⁰² In a November 1985 announcement that the Whanganui National Park had been approved in principle, the Minister of Maori Affairs and Land observed that the Māori interest and perspective were of major significance to the park.⁶⁰³ Following a hui at Taumarunui, a year of increasingly acrimonious negotiations about title to the riverbed, allocation of administrative responsibilities, and naming resulted in a written assurance from the Crown about future negotiations but failed to provide the hapū and iwi of Te Korowai o Wainuiārua with a substantial voice in park operations.⁶⁰⁴
- 20.9. In November 1986 the Crown gazetted 74,231 hectares of existing scenic reserves, Crown land, and state forest as the Whanganui National Park.⁶⁰⁵ The hapū and iwi of Te Korowai o Wainuiārua remained gravely concerned about ownership and

⁵⁹⁸ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, pp.1212, 1219

⁵⁹⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1212; Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A43), pp.34,72. Among issues raised in March and April 1983 were possible disturbances to sacred sites caused by increased visitation, maintenance of traditional fishing rights, erection of boundary fences, and the effect of national park status on adjoining lands. In early 1983 concerns about how the Crown had acquired lands that would become the national park, and the Department of Lands and Survey produced a report, Department of Lands and Survey (1983) "Crown Land Acquisitions (Wanganui River Region) 1881-1916" (Wai 167, A030)

⁶⁰⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1213.

⁶⁰¹ Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), pg. 47; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1212. An example of an expression of ongoing connection can be found in testimony about the Tongariro Power Development's potential impact on the headwaters of the Whanganui River in McBurney, P. (2007) *A History of the Whanganui River Maori Trust Board: Claimant Perspective Report* (Wai 903, A133), pg. 110-112. Speaking in the late 1950s, Hikaia Amohia was objecting to what became the western diversion of the TPD.

⁶⁰² Reimana Bailey was the representative appointed to the Wellington National Parks and Reserves Board, he had been nominated by the Aotea District Maori Council at the end of 1983. Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), pg. 26; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1213

⁶⁰³ Go Ahead Given for Wanganui National Park, 13 November 1985, in *Brief of Evidence of Archie Te Atawhai Taiaoroa: Index, Selected Documents – Volume I* (Wai 167, B008(a)), pg. 106; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1213

⁶⁰⁴ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, pp. 1215-1217.

⁶⁰⁵ "The Whanganui National Park Order 1986" (27 November 1986) 189 *New Zealand Gazette*, pp.5062-68.

management of the river and the inclusion within the park of lands, such as in the Waimarino and Taumatamāhoe blocks, they considered unfairly acquired by the Crown.⁶⁰⁶ The Whanganui National Park was formally opened on 7 February 1987 with its headquarters in Whanganui and secondary offices in Pipiriki and Taumarunui.⁶⁰⁷

- 20.10. The newly-created Department of Conservation assumed control of all national parks in April 1987.⁶⁰⁸ Under the Whanganui National Park Management Plan of 1989, the Department of Conservation was required to ‘consult with and give full consideration to the views of the Whanganui River Maori Trust Board on Park management issues of concern to the Maori people’.⁶⁰⁹ Fishing and plant gathering were permitted only under specific circumstances for Māori.⁶¹⁰ While the management plan required consultation with the Whanganui River Māori Trust Board, it neither made provision for formal consultation arrangements nor regular meetings and fell short of acknowledging holistic Māori understandings of the Whanganui River and its surrounding lands.⁶¹¹ In 1990, the Conservation Law Reform Act replaced the Wellington National Parks and Reserves Board with the Taranaki/Wanganui Conservation Board, but the presence of iwi on the nine-person board remained unchanged with a single representative.⁶¹²
- 20.11. The river remains the focal point of the Whanganui National Park and a 170-kilometre stretch of water between Taumarunui and Ātene links the park’s northern, central, and southern zones.⁶¹³ The park includes many sites of significance to the iwi of Te Korowai o Wainuiārua, such as thermal springs, marae sites (including Tieke, Kirikiriroa, and Mangapapapa), and urupā while the presence of Māori culture remains a central feature of how the Department of Conservation describes the park’s visitor experience.⁶¹⁴

⁶⁰⁶ Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), p. 66. Letter from Mr Maurice Takaranga to Minister Wētere, 25 November 1986 in *Brief of Evidence of Archie Te Atawhai Taiaroa: Index, Selected Documents – Volume I* (Wai 167, B8(00a)), p.144-5.

⁶⁰⁷ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1217

⁶⁰⁸ Conservation Act 1987, s.5; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, pp.1207, 1219

⁶⁰⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1221; Department of Conservation, *Whanganui National Park Management Plan, 1989*, pp.17-18

⁶¹⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, volume three, p.1221; Department of Conservation, *Whanganui National Park Management Plan, 1989*, p.49

⁶¹¹ Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), pp. 99,157.

⁶¹² Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1220

⁶¹³ “The Whanganui National Park Order 1986” (27 November 1986) 189 *New Zealand Gazette*, p.5068; Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1195

⁶¹⁴ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1224; Haitana, P. (2008) *Brief of Evidence of Paora Haitana* (Wai 903, E6), pp.2-5; Courrs, D. (2009) *Brief of Evidence of Damian Richard Coutts: Conservator, Wanganui Conservancy, Department of Conservation* (Wai 903 O004), pp.5-6; also “Whanganui National Park” (accessed 19 March 2021) Department of Conservation <<https://www.doc.govt.nz/parks-and-recreation/places-to-go/manawatu-whanganui/places/whanganui-national-park/>>

20.12. The iwi of Te Korowai o Wainuiārua, however, are aggrieved by the way the Crown has utilised these sites for tourism purposes; in response hapū and iwi have periodically occupied some sites in protest about access and use.⁶¹⁵ One site of concern, the John Coull hut at Puketapu, was rebuilt in 1981 in close proximity to an urupā.⁶¹⁶ In 1988, members of Te Korowai o Wainuiārua informed the Crown of the sacred nature of the site and requested that the hut be moved.⁶¹⁷ Department of Conservation staff and Te Korowai o Wainuiārua rangatahi (youth) cooperated to shift the hut to an alternative site in 1990.⁶¹⁸ Tensions were also exacerbated by the Crown's 1988 introduction of fees for public use of park's facilities.⁶¹⁹ A second structure, the rebuilt Tīeke hut, built on ancestral kāinga and urupā became a site of occupation and protest for the iwi of Te Korowai o Wainuiārua in 1993-4.⁶²⁰ The iwi of Te Korowai o Wainuiārua iwi have repeatedly sought to engage with the Crown about meaningful forms of co-management within the Whanganui National Park, but decades of being separated from the whenua have left them feeling unable to exercise their kaitiaki obligations and responsibilities.

Socio-Economic Consequences

Te Reo Māori

- 20.1. The mita of te reo Māori used in the Whanganui region includes subtle variations in pronunciation and rhythm as well as differences in vocabulary.⁶²¹ In the early twentieth century, teachers at Crown-established schools discouraged Māori pupils from speaking te reo Māori.⁶²²
- 20.2. The Crown considered that part of the role of the native schools was to assimilate Māori into European culture.⁶²³ Teachers were told of 'the necessity of encouraging the children to talk English only, even in the playground'.⁶²⁴ Consequently, many Te Korowai o

⁶¹⁵ Haitana, P. (2008) *Brief of Evidence of Paora Haitana* (Wai 903, E6); Southen, W. (2008) *Brief of Evidence of Wai Wiari Southen* (Wai 903, E12), p.7

⁶¹⁶ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1224

⁶¹⁷ Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), p.103; Haitana, P. (2008) *Brief of Evidence of Paora Haitana* (Wai 903, E006), p.2

⁶¹⁸ Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), p.106

⁶¹⁹ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1224; Hodge, R. (2003) *Whanganui National Park: Late 1970s – 2000* (Wai 903, A043), p.108

⁶²⁰ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1227

⁶²¹ Brief of Evidence of Che Wilson, Wai 903, L24, pp. 30-31

⁶²² Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, p.p. 1114-5

⁶²³ Waitangi Tribunal (2015) *He Whiritaunoka: Whanganui Land Report*, Volume Three, p.1115

⁶²⁴ J. M. Barrington and T. H. Beaglehole (1974), *Māori Schools in A Changing Society: An Historical Review*, Wellington, pp. 135, 149-150 in Document A165(x) (Supporting documents), pp. 10662, 10669-10670; Paul Christoffel (2011), *The Provision of Education Services to Māori in Te Robe Potae, 1840-2010*, Wai 898, A27, p. 118

Wainuiārua children suffered corporal punishment in schools for speaking their own language.⁶²⁵

- 20.3. Furthermore, Te Korowai o Wainuiārua children were often obliged to travel long distances to reach schools, or to leave their homes to settle near secondary schools.⁶²⁶ Rural schools were often not well-maintained – in 1958, the dilapidated state of Pipiriki School prompted an observer to describe it as “the worst Māori school in New Zealand”.⁶²⁷
- 20.4. For Te Korowai o Wainuiārua, the hapū and iwi feel that the loss of their language and their mātauranga is akin to the loss of their land, and an attack upon their identity which has been “deprived of nutrition by the Crown.”⁶²⁸ In turn, it has been difficult for Te Korowai o Wainuiārua to maintain a distinct presence and sense of identity within their own rohe.⁶²⁹ Members of the iwi assert, for example, that the Crown “tore apart” the relationships their people relied upon for life, and they have become almost “invisibilised” as an entity.⁶³⁰

Health

- 20.5. From 1840, the arrival of Europeans exposed Te Korowai o Wainuiārua to new forms of infectious disease which caused the population of Māori in the Whanganui region to decline.⁶³¹ At this time European medicine had a limited ability to deal with infectious diseases and other health problems, but in the nineteenth century the Crown only offered a limited welfare service.⁶³² A lack of access to medical care meant epidemics such as typhoid and tuberculosis hit Te Korowai o Wainuiārua communities especially hard.⁶³³

Economic Development

- 20.6. Employment opportunities in the remote parts of the Te Korowai o Wainuiārua rohe were limited, and by the 1950s many families in places like Pipiriki were struggling to support

⁶²⁵ Raymond Rapana explained that te reo was not part of the curriculum at either the local primary school or secondary school which he attended; he stated that the students “would get the strap if we even uttered a word of Māori” (Raymond Rapana (2009), Statement Of Evidence Of Raymond Rapana, Wai 903, F2, pp. 4-5).

⁶²⁶ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), p. 516

⁶²⁷ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), p. 515

⁶²⁸ Rangi Bristol and Raymond Rapana (2009), Closing Submission for and on behalf of the Tamakana Council of Hapū, Wai 903, 3.3.76, p. 43; G Taurerewa, R Dixon, S Winiata, P Ponga (2009), Closing Submission for and on behalf of Tamahaki; Uenuku; Ngati Hinekura; Ngati Rangitautahi; Tamakana; Ngati Ruru; Ngati Pare and Ngati Tumanaka, Wai 903, 3.3.89, pp. 38-39

⁶²⁹ Counsel for Tamakana (2009) *Closing Submissions on Behalf of Tamakana Council of Hapū – Wai 954 for the Whanganui District Inquiry* (Wai 903, 3.3.76), p.46

⁶³⁰ Counsel for Uenuku (2009) *Closing Submissions for and on Behalf of Those Embraced by Uenuku and Their Constituent Hapu and Whanau* (Wai 903, 3.3.108), p.10

⁶³¹ Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, Volume Three, p.1117

⁶³² Waitangi Tribunal (2015) *He Whiritaunoka: The Whanganui Land Report*, Volume Three, p.1117

⁶³³ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), p. 400

themselves.⁶³⁴ Permanent employment in urban centres like Ohakune and Raetihi was also scarce, and seasonal or unwaged labour made it difficult to members of Te Korowai o Wainuiārua to secure government housing loans.⁶³⁵

- 20.7. The decline of the railway-building and timber-milling industry from the 1950s created further economic hardship for Te Korowai o Wainuiārua families.⁶³⁶ A growing population compounded economic pressures and many Māori from the Whanganui region migrated to urban centres for work where they often worked as unskilled, manual labourers.⁶³⁷

Housing

- 20.8. In the 1930s and 1950s, Crown officials repeatedly observed that Māori housing was poor and overcrowded, particularly in Pipiriki, Raetihi, and Ohakune.⁶³⁸ Many houses in remote places had inadequate drainage or plumbing, with water supplied by rainwater tanks or wells, and toilet facilities open to the elements.⁶³⁹ In 1955, correspondence between a District Officer and the Mayor of Ohakune described housing conditions of Māori residents in an area of Ohakune as “shocking”.⁶⁴⁰

- 20.9. In 1956, the Mayor of Whanganui criticised the Crown’s tardiness in addressing the housing needs of Māori.⁶⁴¹ Although the Crown provided some assistance to Māori who wanted to buy homes, many Māori struggled to save the required deposit.⁶⁴²

Contribution to New Zealand

- 20.10. Many New Zealanders enjoy recreational activities on the lands and waters in the rohe of Te Korowai o Wainuiārua, particularly in the national parks that comprise such a large proportion of the rohe. Given the virtual landlessness that the iwi of Te Korowai o Wainuiārua suffer, the unacknowledged contributions they made willingly (through Crown purchases) and unwillingly (through public works takings) remain a burden upon the iwi.

⁶³⁴ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), p. 515

⁶³⁵ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), p. 520

⁶³⁶ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), pp. 519-520

⁶³⁷ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), pp. 605-6

⁶³⁸ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A0061), pp. 584, 606; Boulton, L. (2006) *Contextual Material on Māori and Socio-Economic Issues in the National Park Inquiry District, 1890-1990: A Scoping Report* (Wai 1130, A057), p.114

⁶³⁹ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A061), pp. 580, 583

⁶⁴⁰ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A0061), p. 589

⁶⁴¹ Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A0061), p. 594

⁶⁴² Rose, K. (2004) *Whanganui Maori and the Crown: Socio-Economic Issues* (Wai 903, A0061), pp. 592-595

20.11. Te Korowai o Wainuiārua also have a proud record of service in New Zealand's defence force for both World Wars.⁶⁴³

⁶⁴³ The Raetihi war memorial records the names of men from Raetihi who died fighting in World War One, including five Māori ('Raetihi war memorial', URL: <https://nzhistory.govt.nz/media/photo/raetihi-war-memorial>, (Ministry for Culture and Heritage), updated 13-Aug-2018). The military records of these men (M Hapuku, H Kite, Kura Koanga, J Raki Raki, and C.W. Maru) list their iwi affiliation as iwi Māori (These records were sourced from <https://28maoribattalion.org.nz/soldier/>). As Uenuku and Tamakana are the main iwi who reside in Raetihi, it is highly likely these men whakapapa to Te Korowai o Wainuiārua hapū.

The Whanganui Māori War Memorial also listed Māori soldiers from the Whanganui district who died during World War One ('Whanganui Māori war memorial', URL: <https://nzhistory.govt.nz/media/photo/wanganui-maori-war-memorial>, (Ministry for Culture and Heritage), updated 17-Apr-2020). The iwi affiliations of these men are also not noted on their records, however two of the men have recognisable Te Korowai o Wainuiārua whānau names: Rangihwinui Hiroti and Wiremu Rangitauri. It is likely, therefore, that these men were Te Korowai o Wainuiārua tūpuna.

Te Korowai o Wainuiārua hapū are the tangata whenua of three main marae in their rohe: Mō te Katoa, Te Puke, and Paraweka. While examining the honour rolls in these marae has not been possible in present circumstances, the Māori Maps website states that members of these marae were part of the D Company in the 28th Māori Battalion in World War Two (<https://maorimaps.com/marae/m%C5%8D-te-katoa>; <https://maorimaps.com/marae/raetihi-te-puke>; <https://maorimaps.com/marae/paraweka>).