7 HISTORICAL ACCOUNT

INTRODUCTION

7.1 The Affiliate Te Arawa Iwi/Hapu traditionally exercised customary interests within the approximately 1,150,000 acre area from the Bay of Plenty coast to the inland Rotorua lakes and into the interior to the Mamaku ranges and Kaingaroa forest. Other iwi and hapu also exercised customary interests within this area.

7.2 The Affiliate Te Arawa Iwi/Hapu traditionally operated as quite independent entities, with some coming together for mutual defence and cooperation when confronted by external threats from outside parties or when prompted by common interests. The Affiliate Te Arawa Iwi/Hapu held their land and resources in customary tenure where tribal and hapu collective ownership was paramount.

7.3 A small number of Pakeha traders and missionaries settled in the Maketu, Rotorua and Tarawera areas in the 1830s. The Affiliate Te Arawa Iwi/Hapu in Maketu and the inland lakes areas were intent on engaging with the new opportunities created by the opening up of trade and commerce between different tribal areas after 1840, and particularly by the growing Auckland market. They purchased coastal vessels to transport their trade goods, including flax, pigs, potatoes and other produce to Auckland. By the 1850s they were constructing mills and producing flour and wheat. A fledgling tourist trade also developed in the 1840s and 1850s. Local Maori acted as guides escorting travellers who passed through the area, attracted by the many hot springs and sights like the Pink and White Terraces at Tarawera.

7.4 The first official Crown presence in the area came with the appointment of a Police Magistrate and sub-protector of Aborigines at Maketu in 1842. There was increasing engagement between many Affiliate Te Arawa Iwi/Hapu and the Crown in the 1850s and early 1860s. The Crown stationed a Resident Magistrate at Maketu in 1852, whose main role was mediating disputes between Maori with the assistance of Maori assessors. The Crown also provided assistance to some Affiliate Te Arawa Iwi/Hapu in this period for the purchase of vessels and mills and in the building of roads.

7.5 In 1860 the Governor called a conference at Kohimarama, in part to sound out Maori opinion on issues including the Treaty of Waitangi, law and order, and land. Representatives of some Affiliate Te Arawa Iwi/Hapu attended the conference. They expressed their support for the Queen and indicated their interest in engaging with the Crown on issues that affected them. The conference, which lasted almost a month, also canvassed possible means of ascertaining ownership of Maori land. Crown officials suggested that Maori runanga operating under the supervision of a Pakeha official could be established to investigate land disputes. The Crown agreed to reconvene the conference the following year, but the new Governor adopted a different approach.

7.6 In 1861 the Governor initiated a scheme by which village and district runanga were set up under Pakeha officials. These could propose bylaws to the Governor, which would be enforced by resident Magistrates and Maori Assessors. It was intended that the District Runanga define tribal interests in land, but little came of this plan. Some Affiliate Te Arawa Iwi/Hapu had already established runanga in the late 1850s to assist in the management of their affairs and a number initially supported the

Governor's scheme. Village runanga were established at Maketu, Rotoiti and Okataina, Rotorua and Tarawera. The scheme was, however, ultimately unsuccessful at a national level and was discontinued in 1866.

7.7 From the mid-1860s many Te Arawa fought as allies of the Crown in the New Zealand wars. The conflict put a stop to tourism in the area for a time.

7.8 From 1866 several private parties began to negotiate with Affiliate Te Arawa Iwi/Hapu over land. The majority of these negotiations were for leases. By the late 1860s, however, few Pakeha had settled within the areas in which the Affiliate Te Arawa Iwi/Hapu had interests, and almost all Te Arawa land remained in customary tenure.

The Native Land Laws

7.9 By the early 1860s the Crown had legislated a new system of dealing with native land. Under the Native Land Acts of 1862 and 1865 the Crown established the Native Land Court to determine the owners of Maori land "according to Native Custom" and to convert customary title into title derived from the Crown. The Native Land Acts also set aside the Crown's pre-emptive right of land purchase, to give individual Maori named as owners by the Court the same rights as Pakeha to lease and sell their lands to private parties as well as the Crown.

7.10 The Crown aimed, with these measures, to provide a means by which disputes over the ownership of lands could be settled and facilitate the opening up of Maori customary lands to colonisation. It was expected that land title reform would eventually lead Maori to abandon the tribal and communal structures of traditional land holdings. Converting customary lands into land held under the British title system would also give Maori landowners the right to vote. However, it was the perceived failure of the pre-emption purchase system that provided the immediate impetus for Parliamentary action in 1862.

7.11 The Native Land Acts introduced a significant change to the native land tenure system. Customary tenure was able to accommodate the multiple and overlapping interests of different iwi and hapu to the same piece of land. The Court was not designed to accommodate the complex and fluid customary land usages of Maori within its processes, because it assigned permanent ownership. In addition, land rights under customary tenure were generally communal but the new land laws gave land rights to individuals. The Crown had generally canvassed views on land issues at the 1860 Kohimarama conference but did not consult with Affiliate Te Arawa Iwi/Hapu on the native land legislation prior to its enactment.

7.12 Maori had no alternative but to use the Court if they wished to secure legal title to their lands, including securing title against the competing claims of others. A freehold title from the Court was necessary if Maori wanted to sell or legally lease land, or to use it as security to enable development of the land. The Court's investigation of title for land could be initiated with an application in writing by any Maori. The Court did not act on all applications but in some instances surveys or investigations of title proceeded without the support of all of the hapu who claimed interests in the lands. In most cases the land was surveyed and then the Court (which consisted of a Pakeha judge and a Maori assessor or assessors) would hear the claims of the claimants and any counter-claimants. Those the Court determined were owners received a certificate of title.

Introduction of the Native Land Court in Affiliate Te Arawa Iwi/Hapu Area

7.13 The Native Land Court started hearing the first substantive claims of land ownership involving Affiliate Te Arawa Iwi/Hapu in October 1867. Court hearings were held at Oruanui, near Taupo, concerning lands claimed by Ngati Tahu-Ngati Whaoa and other Affiliate Te Arawa Iwi/Hapu. Hearings were also started at Maketu to hear the claims of Affiliate Te Arawa Iwi/Hapu and others to land in the heavily contested coastal Bay of Plenty area.

7.14 The introduction of the Court in these areas in the late 1860s and early 1870s drew a variety of responses from Affiliate Te Arawa Iwi/Hapu. Some engaged with the Court's hearings from the outset, for varying reasons. Ngati Tahu sought to gain secure titles to assist their leasing of land and, later, to secure their lands against potential claims from people from other areas. Others objected to the Court. The Maketu hearings drew protest from those who disputed the Court's rulings on ownership of some blocks and from those in the wider community who wanted to prevent the establishment of the Court in the area. The Court also sat at Ohinemutu, but none of the applications before it were ready to proceed.

7.15 The Government received complaints from Affiliate Te Arawa Iwi/Hapu about the operation of the Court on at least four occasions between 1871 and 1874. Complaints concerned the cost of Court hearings, expensive survey charges and applications that were initiated without the knowledge or consent of other owners of the lands in question. In January 1871 Te Pokiha Taranui of Ngati Pikiao told Native Minister Donald McLean that "instead of the Native Land Court being a boon to us, it is a source of trouble and expense". In a letter to the Minister on behalf of "all the Arawa" around the same time complaints were made that they had never seen translations of the Native Land Acts and stated "[t]hat is why we have no knowledge of the arrangements of the Native Land Court". Many Te Arawa Iwi/Hapu expressed support for the unsuccessful Native Councils Bill of 1872-3 which, among other things, proposed the establishment of Native Councils which would investigate the ownership of Maori land and make recommendations to the Court (which would be binding if all parties agreed).

7.16 In the case of the Kaingaroa 2 block, at that time calculated at 143,600 acres, the Court awarded title to people of Ngati Tahu-Ngati Whaoa under a provision of the Native Land Act 1865, which allowed only ten people to be appointed owners. Ngati Tahu-Ngati Whaoa later protested that it was wrong that a Crown grant to ten owners "should have effect over the land of all the people, men, women and children, we strongly object to that system". They appealed to have all the owners included on the title for the block, but were unsuccessful.

Crown Purchasing 1870s

7.17 In the early 1870s the Government borrowed heavily to fund an immigration and public works scheme that used a number of means, including the purchase of Maori land, to develop infrastructure and facilitate Pakeha settlement in the North Island. In June 1873 the Crown employed several of the agents working for private parties in the central North Island. They transformed their private negotiations into Crown negotiations.

7.18 In 1873 the Crown suspended the operation of the Native Land Acts over the Bay of Plenty district, including land in which Affiliate Te Arawa Iwi/Hapu had interests. This

was done to avert conflict between rival Te Arawa claimant groups. One Crown land purchase agent later testified that it was also done "to discourage the interference of private individuals with Government negotiations". The suspension of the Native Land Court restricted all purchasing because, aside from the areas where title had already been awarded, ownership of land could not be judicially determined and final land titles could not be issued. Most private purchasers abandoned their negotiations for land. By the time the Court was suspended Affiliate Te Arawa Iwi/Hapu had obtained title to only a few blocks.

7.19 Initially Crown land purchase agents were instructed to acquire as much land as possible without injury to Maori. The Native Minister did, however, express concern that the Government's acquisition of lands should not come at the expense of further civil unrest. The Crown purchase agents reported that from the outset of their negotiations with Te Arawa they sought to secure "every available block of land on behalf of the Government by making preliminary agreements with and paying deposits to sections of the recognised owners". Within a short time they visited a number of Maori settlements and had initiated negotiations for a large area of land.

7.20 In most cases the Crown opened negotiations for land before the lands ownership had been judicially determined. The Crown agents' strategy of dealing with and paying sections of the "recognised owners" before elucidating the full ownership of the land provoked much ill feeling among Maori who claimed interests in the blocks under negotiation, but were not parties to the preliminary agreements. There were a number of allegations from Te Arawa that Crown agents dealt with individuals apart from the main tribes with interests in the land. In November 1873 Tuhourangi complained that the Crown agents were entering into secret deals with individuals without the prior knowledge or consent of other owners of the lands. Matiu Rangiheuea informed the Crown that "The Maoris are now in an unsettled and disturbed state (noho kino) owing to this system". Even though instructions not to purchase from individuals were given to Crown purchase agents at an early stage, there does appear to have been some individual negotiations. In January 1874 the Government advised the Crown purchase agents against purchasing individual interests in land.

7.21 The Crown aimed to purchase land outright but there was widespread opposition amongst Maori to land sales. As a result the Crown purchase agents reported that they were cautious of raising the issue of sales with Te Arawa and mainly confined their proposals to leasing land. The Crown was also very concerned that private competition would prevent it from acquiring the estate it desired. The Crown's primary purpose in entering lease negotiations was to facilitate its purchase program by shutting out private parties. The Crown leases had inalienation clauses to prevent sale to private parties.

7.22 The Crown's attempts to lease or purchase land brought a variety of responses from Affiliate Te Arawa Iwi/Hapu. Some entered lease or sale negotiations with the Crown because they wanted to derive an income from their land. In the case of the Tauhara North block, Ngati Tahu later testified that they sold the land, reluctantly, to pay the survey costs which were "increasing year by year" because of interest charges.

7.23 Those Affiliate Te Arawa Iwi/Hapu who did enter negotiations to lease or sell their land found that the Crown generally tried to acquire land as cheaply as possible. Crown agents reported that they were paying less in their negotiations to lease land than private parties had been offering to lease land before June 1873. In some cases,

including the Kaikokopu block, the Crown paid a deposit on land which bound the recipients into negotiations before the total purchase price had been agreed.

7.24 Aside from initial deposits, the Crown generally did not pay rent on land it negotiated to lease until the title had been determined by the Court. With the Court suspended for much of the period between 1873 and 1877, land ownership could not be determined. Unless they had had informal leases Maori were deprived of the opportunity to receive rental income from their land during the period that it was under negotiation for lease by the Crown.

7.25 Many Affiliate Te Arawa Iwi/Hapu expressed unhappiness at the Crown's approach to negotiations and Crown purchase agents encountered opposition to their negotiations from some Affiliate Te Arawa Iwi/Hapu from the outset. In 1873 a Tuhourangi tribal komiti (committee), Putaiki, was established, which sought to prevent other tribes and Tuhourangi individuals or hapu from dealing with land independent of the komiti. In 1874 the chiefs of two Affiliate Te Arawa Iwi/Hapu presented evidence to the Native Affairs Committee of the House of Representatives in which they criticised the Crown's conduct of negotiations. They also objected to the restrictions on sale or lease of land to any party other than to the Crown, while proclaiming their general opposition to selling land. This evidence was presented in support of five petitions, signed by many Te Arawa. The Native Affairs Committee concluded that the petitions deserved considerable weight.

7.26 By August 1874 the Crown agents had opened, but not completed, lease negotiations for almost 650,000 acres of land and purchase negotiations for almost 400,000 acres of land within the area over which Affiliate Te Arawa Iwi/Hapu claim interests. Government officials instructed them not to open any new negotiations and the focus shifted to concluding existing negotiations. The following month the Crown effectively reinforced monopoly conditions over its lease negotiations by using a provision in the Immigration and Public Works Act 1870 to prevent private parties from acquiring the lands it was negotiating for.

7.27 Crown purchase agents were withdrawn from the central North Island at the end of June 1876 primarily due to Crown concerns that their activities were going to provoke civil unrest among Te Arawa. They had not completed any transactions.

Resuming Negotiations

7.28 The suspension of Crown purchase operations did not last long. The Crown still wanted these lands for settlement, and was determined to acquire land for the value of its previous advances. A number of blocks Affiliate Te Arawa Iwi/Hapu had interests in remained under negotiation for lease or purchase, including Kaikokopu, Tauhara North, Paengaroa, Whakarewa, Paeroa and the lands that later became the Rotomahana Parekarangi block.

7.29 Most of the transactions could not be completed because ownership of the land had not been determined by the Court. In February 1877, after securing the agreement of Maori with interests in Maketu for the Native Land Court to recommence hearings in that district, the Crown lifted the suspension of the Court. The same year, the Crown enacted the Native Land Amendment Act which enabled it to partition out the interests it had purchased from individual owners in any block without gaining agreement from the other owners of the land.

7.30 The Crown was determined to protect its negotiations from interference by private parties. It proclaimed much of the land it had previously paid advances or deposits on to be subject to a provision of the Government Native Land Purchases Act 1877, which made it illegal for private parties to acquire the land.

7.31 The Crown's initial focus was on the completion of existing negotiations, but few transactions had been completed before 1880. In most cases lease negotiations became purchase negotiations. The Court investigated ownership to the Kaikokopu block in 1878 and awarded title to many more Ngati Pikiao than the Crown had negotiated with, and paid advances to, to lease and purchase the land. Further negotiations had to be undertaken for both the lease and purchase areas. The Crown was reluctant to complete lease negotiations with the 161 people awarded title to the 25,000 acre lease area and by 1883 it had purchased 14,676 acres of that area instead.

7.32 In 1878 the Crown began to open new negotiations to acquire lands in which Affiliate Te Arawa Iwi/Hapu claimed an interest, including part of Paeroa South, Patetere Rotorua and Kaingaroa 2. Those blocks were also proclaimed under the 1877 legislation. In the case of the Kaingaroa 2 block, private purchasers had already been negotiating to purchase the block, for more money than the Crown was willing to pay. When the purchase price of £7,000 for the 91,529 acre block had been agreed in 1879 the Crown purchase agent advised that the interest from private purchasers had forced him to pay several thousand pounds more than he had originally anticipated.

7.33 A number of Affiliate Te Arawa Iwi/Hapu continued to resist land sales in this period. Some sought to maintain tribal control over land through tribal komiti. The Tuhourangi komiti, Putaiki, remained active and a new tribal komiti, the Komiti Nui, emerged at Rotorua in December 1878. The Komiti Nui was based at Rotorua and included Ngati Uenukukopako. Ngati Pikiao formed a komiti in 1879 and petitioned the Crown for the same powers as the Court to adjudicate over land. One of the objectives of these komiti was to undertake investigations into ownership of certain land blocks which they then aimed to send to the Court for confirmation. The Komiti Nui held hearings into a number of land disputes in 1879 and 1880 but its decisions carried no legal weight and could be overturned when the same blocks were later investigated by the Court. Official reactions to the Komiti Nui varied with some officials seeking to engage with the Komiti as representatives of Affiliate Te Arawa Iwi/Hapu. More broadly, however, the Crown's reaction to the Komiti Nui was generally unfavourable.

7.34 In the early 1880s Ngati Whaoa sought to release the Paeroa East block from lease negotiations with the Crown which had started in the 1870s. Their argument that the Crown should pay rent for the land under negotiation to lease was unsuccessful. Ngati Whaoa raised money to repay the lease deposit and other advances, but this left them in considerable debt and within three years of receiving title they sold almost 49,000 acres of the 70,000 acre block to a private purchaser.

7.35 By the end of the 1870s the impetus of the Crown purchasing programme had been lost, and priorities for land purchase were being reconsidered. In November 1879 a new Government instructed Crown purchase agents to stop paying money on land that had not passed through the Court. The Crown also decided to try to complete the purchase of the good quality land it had under negotiation and scale back negotiations for land that was of little commercial utility. The Crown did not abandon advance payments already made, but tried to recover them in land or money.

Thermal Springs District Act 1881

7.36 The tourism trade to the thermal and scenic attractions of the Rotomahana and Ohinemutu areas grew throughout the 1870s and 1880s, and the publication of journals and guidebooks by several early visitors increased the popularity of the region. Maori charged tolls over lands they owned, acted as guides, and provided accommodation and travel to visitors.

7.37 The Crown wanted to acquire the natural wonders of the "hot springs" country to ensure that they would not pass into private hands but rather would be held for the benefit of all. By 1880 the Crown had not managed to lease or purchase any land in this area.

7.38 In November 1880 the Crown signed the Fenton Agreement with 47 Te Arawa chiefs, including representatives of Ngati Uenukukopako, to facilitate the establishment of a township in Rotorua. Tuhourangi negotiated a separate agreement at the same time whereby they consented to the township proposal subject to the Native Land Court investigating their claims to the land in question. Affiliate Te Arawa Iwi/Hapu believed that they would derive significant benefits from the further development of Rotorua and the tourism industry.

7.39 Members of Tuhourangi subsequently obstructed the survey of the township block because it extended further than they had realised. Their objections were resolved and the survey was completed. Members of the Komiti Nui were extensively involved in the negotiations with Fenton and hoped that the Komiti Nui would be allowed a significant role in the process of determining title to Pukeroa Oruawhata, the block on which the township was to be located. The Fenton Agreement did not provide for the Komiti Nui to have a role in defining title, but at the start of the Pukeroa Oruawhata title investigation Maori did ask the Court to recognise the standing of the Komiti Nui. This request was declined because under the Native Land Acts the Court could not do so.

7.40 In September 1881 Parliament passed the Thermal Springs District Act 1881 to enable the implementation of the Fenton Agreement and for related purposes. The Act empowered the Crown to proclaim districts with geothermal resources as subject to the Act, and declared it unlawful for any person "to acquire any estate or interest in Native Land therein" except as permitted. Soon after the Act was passed, the 3,200 acre Pukeroa Oruawhata block was proclaimed a district under the Act.

7.41 A further proclamation in October 1881 declared an area of over 600,000 acres to be a district under the Act. This encompassed a far greater area than was covered by the Fenton Agreement and included land without geothermal features. The Crown does not appear to have consulted Maori regarding the extent of the proclamations. The reactions of Affiliate Te Arawa Iwi/Hapu to the initial proclamation of the district varied. Some sections of Affiliate Te Arawa Iwi/Hapu were opposed to the legislation, or its proclamation over their own lands, describing it in several 1882 petitions as being "in contradiction of the Treaty of Waitangi".

7.42 This proclamation and several others made under the Act further provided for the creation of a Crown purchasing monopoly over the majority of land in which Affiliate Te Arawa Iwi/Hapu claimed interests, regardless of whether it had previously been brought under negotiation.

7.43 Following the Fenton Agreement, many blocks in the area were taken before the Ohinemutu Court by Maori claimants, effectively introducing the Court into the inland lakes area.

The Native Land Court in the 1880s

7.44 In the 1880s the Native Land Court adjudicated over a large number of blocks in which the Affiliate Te Arawa Iwi/Hapu claimed interests, including Rotomahana Parekarangi, Whakapoungakau, Paeroa East, Tahorakuri, Kaingaroa 1 and 2 and Patetere South. The Affiliate Te Arawa Iwi/Hapu were not awarded land in all of the blocks they asserted customary interests in.

7.45 Attending Court hearings to claim and defend their interests in land was costly for many of the Affiliate Te Arawa Iwi/Hapu. Court fees were generally charged on a daily basis and with lengthy hearings became substantial. In a few cases Affiliate Te Arawa Iwi/Hapu had to travel a considerable distance to Court hearings of blocks they claimed. Ngati Kearoa Ngati Tuara had to travel approximately 100 miles to Cambridge for the title investigation of the Tikorangi block. The lengthy hearings for the Kaingaroa blocks were held at Matata, a considerable distance from the Kaingaroa lands and from the kainga of Ngati Tahu-Ngati Whaoa.

7.46 The complexity of having multiple claims to the same blocks resulted in long and contentious hearings for the Rotomahana Parekarangi, Whakapoungakau and Rotorua Patetere Paeroa blocks between 1881 and 1886. The Rotomahana Parekarangi block hearings were held at Rotorua between April and June 1882, at the same time that a simultaneous Court was also sitting there to finalise title to the Rotorua township block. As many as 1,500 Maori attended these hearings. Many stayed for the three months it took to hear their claims to the 211,000 acre Rotomahana Parekarangi block, in "wretched tents" providing little shelter from inclement weather. Both the claimants and the counter-claimants to the block appealed the original award and a rehearing was held over five months in 1887. The Court sitting was unusually lengthy because of a high number of counter-claimants. Tuhourangi were awarded a substantial portion of the block and other iwi, including Ngati Kearoa Ngati Tuara and Ngati Whaoa, were awarded smaller areas.

7.47 The survey charges incurred in title investigations and partitions varied considerably between blocks and continued to be of concern to some Affiliate Te Arawa Iwi/Hapu. Tuhourangi raised the issue of the high cost of surveys and the burden this imposed upon Maori at meetings with the Native Minister in 1885. In some cases Affiliate Te Arawa Iwi/Hapu also found surveys a heavy burden in the 1880s and 1890s. Surveys for the Kaingaroa 2 and Paeroa blocks, carried out in 1879, were drawn out and very expensive. In 1884 Ngati Kearoa Ngati Tuara used the proceeds of the sale of the 4,000 acre Patetere South 2 block to pay for various survey costs. In 1900, Ngati Uenukukopako and other owners of Whakapoungakau gave up 637 acres of the 10,876 acre block to the Crown in extinguishment of a survey lien on their land.

7.48 In the 1880s the Court investigated title to many of the blocks the Crown had brought under negotiation to lease or purchase in the 1870s. The Crown sought to complete the negotiations or recover the value of its previous advances either in money or land. The Crown paid a number of advances, for example, to people of Ngati Kearoa Ngati Tuara between 1874 and 1879 for the Rotohokahoka block. The Court did not award title of this block to Ngati Kearoa Ngati Tuara. The Crown wanted to recover its advances and in 1884 the Ngati Kearoa Ngati Tuara owners agreed to part with the

7,000 acre Patetere South 1A block to pay their debt to the Crown. This arrangement was subsequently the subject of significant protest from other groups who had interests in the land in question.

Eruption of Mt Tarawera

7.49 In June 1886 Mt Tarawera erupted, killing 147 Maori and 6 Pakeha. Most of the casualties were suffered when the Tuhourangi settlement of Te Wairoa was buried, and extensive tracts of land and forest were also affected by the ash-fall. The eruption destroyed the Pink and White Terraces, a tourist attraction that provided considerable income for Tuhourangi.

7.50 Relief donations flowed in from Maori and Pakeha communities throughout the country. In addition, the Crown set aside approximately £1,200 for aid to Maori and £2,000 for Pakeha, and assisted with the transportation of relief supplies for Maori. It later decided that any further "money or other assistance to [Maori] should be made by Govt. in the form of payment for their land or labour". No Government compensation was paid for property losses.

7.51 Several Maori groups offered land for the resettlement of Tuhourangi survivors in 1886. The Crown proposed to provide Crown lands and various other practical assistance for Tuhourangi. Officials advised that as the Rotomahana area was not immediately suitable for Maori occupation the Crown could "take advantage" of the opportunity to acquire those lands, which contained geothermal springs. This arrangement was never finalised. The Crown later purchased significant amounts of the Rotomahana Parekarangi block from Tuhourangi in the 1890s.

7.52 In 1889 Tuhourangi requested that the Crown award them land at Maketu and Rotorua as permanent homes. The Crown found approximately 1000 acres at Matata but nothing further happened until 1895, when Tuhourangi requested that 800 acres be allocated to them at Waihi, adjacent to land that had been gifted to them by Ngati Tamatera, and 200 acres be allocated by the sea to provide access to fisheries. Despite Crown efforts to find appropriate land, the requests went unresolved until 1919, when 800 acres was provided at Waihi. Despite frequent petitions and appeals through to the 1960s the Crown never found another 200 acres for Tuhourangi.

The Native Land Court and Crown Purchasing in the 1890s

7.53 Native Land Court hearings remained a feature of life in Affiliate Te Arawa Iwi/Hapu communities through the 1890s. Ngati Pikiao were the only Affiliate Te Arawa Iwi/Hapu who still held a considerable amount of land in customary title and in the 1890s the Court investigated the ownership of a number of blocks they claimed, including Paehinahina, Rotoiti, Rotoma-Waipohue and Tautara. In 1895 some Ngati Pikiao were involved in efforts to discourage iwi and hapu from submitting their land to the Courts as part of the national boycott organised by Te Kotahitanga (a Maori Parliament). Court activity ceased in Rotorua and Maketu, but only for a short time. Other Affiliate Te Arawa Iwi/Hapu were involved in hearings to subdivide or partition land and to arrange succession to individual interests.

7.54 There was a resurgence of Crown purchasing of Affiliate Te Arawa Iwi/Hapu lands in the 1890s. In 1894 the Crown cemented its monopoly by re-imposing Crown pre-emption over all Maori land. The following year the Crown began purchasing the interests of individual owners in the Rotomahana Parekarangi block. By December

1895 the Crown had purchased shares equivalent to 63,119 acres at an average price of 3 shillings per acre and petitioned the Court to have its interests partitioned out of the various subdivisions of the block. The areas the Crown sought to acquire in each of the subdivisions was sometimes challenged by owners as they sought to ensure that their homes and cultivations were not included in the Crown portion. One proposed partition was challenged because a tohunga was buried in the piece claimed by the Crown. The Court supported the Crown's proposed partition and told the challenger to remove the bones. The Crown resumed purchasing land in the Rotomahana Parekarangi block in 1896 and had purchased a further 24,607 acres from Affiliate Te Arawa Iwi/Hapu by 1899.

7.55 In 1893 the Crown started purchasing individual shares of the Whakarewarewa block. Whakarewarewa was a tourist attraction because of its geothermal resources, including Turikore (the spout bath) and hot springs. Whakarewarewa 2 and part of Whakarewarewa 3 were owned by Ngati Wahiao, who derived income by charging tourists a toll. By December 1895 the Crown had purchased most of Whakarewarewa 3 and met with Ngati Wahiao to discuss the partitioning out of their interests in the block. It was agreed that Ngati Wahiao would retain their village and that "the whole of the attractive part of Whakarewarewa", including the geysers and baths that attracted tourists, would go to the Crown.

7.56 The Crown suspended the initiation of new purchases in 1897-98 and in 1899 formally barred itself from making new purchases of Maori lands for some time. The Crown had provided few reserves in the lands it had purchased from Affiliate Te Arawa Iwi/Hapu in the 1870s-1890s, and some iwi and hapu had little land remaining by the end of the nineteenth century. Affiliate Te Arawa Iwi/Hapu consider that, during the periods when monopoly conditions applied it is likely to have decreased land prices.

Twentieth Century Land Administration

7.57 By the late nineteenth century the Crown was concerned that Maori land was often not being used profitably, due in part to multiple ownership and a lack of access to development finance. The Crown accepted that existing procedures for managing Maori land were inadequate, and the Crown was also aware and concerned that further permanent alienation of Maori land might leave a reviving Maori population with insufficient land for their needs and requiring state support.

7.58 In response to these issues the Maori Land Administration Act 1900 was passed, which introduced Maori Land Councils with elected Maori representation to act for Maori landowners in the administration of lands voluntarily placed under their authority and to supervise all land alienation. The Crown aimed to enable Maori to retain land while ensuring that 'idle' land was leased and the income generated used to develop it. The Councils were also given a role in determining the ownership of Maori land with the assistance of elected Maori committees, but by this time title to most Affiliate Te Arawa Iwi/Hapu land had already been determined by the Court.

7.59 Few areas of Affiliate Te Arawa Iwi/Hapu land were vested in the Councils or alienated in the first decade of the twentieth century. In 1906 the Councils became government-appointed boards, with a number of new powers, including the sole right to approve leases of Maori land within their districts. By 1910 Affiliate Te Arawa Iwi/Hapu land fell within the Waiariki land district.

7.60 The Government was generally concerned about the lack of Maori land available for settlement. The Crown set up the Stout-Ngata Commission in 1907 to appraise all unused and under-utilized land owned by Maori and determine a sufficiency of land to be set aside for occupation and farming by its Maori owners. The balance was to be made available for general settlement, either by Crown purchase or by lease through the land boards. Lands subject to the Thermal Springs District Act 1881 were excluded from the Commission's terms of reference. However, the Commission did consider most of the land owned by Affiliate Te Arawa Iwi/Hapu around Rotorua and generally concluded that, with the exception of Ngati Pikiao, Rotorua Maori had little or no surplus land available for purchase or lease.

7.61 The Thermal Springs District Act 1910 removed the Crown monopoly of purchase on land within the district. While the Crown resumed purchasing at this time, most purchases were made by private parties.

7.62 Some of the measures put in place to protect Maori land interests under the Maori Land Administration Act 1900 and the Native Land Act 1909 were significantly weakened by subsequent amendments, so that from 1913 land boards were no longer required to have Maori members. The role of the Waiariki Maori Land Board in monitoring the alienation of the lands of Affiliate Te Arawa Iwi/Hapu was largely one of ensuring the legislative steps were complied with. Boards could also approve land sales even if it was the last land owned by Maori, if the land would not in any event provide sufficient support to them or where another form of income could provide an alternative adequate income.

Consolidation and Land Development Schemes

7.63 By the late 1920s many Maori owned small and fragmented interests in a number of blocks spread throughout their rohe as a result of individualisation and partition of interests. The Crown attempted to resolve the issue of Maori being left with fragmented and often uneconomic land holdings by introducing consolidation schemes. The intention was to group close family interests into single, or contiguous areas to encourage the further development of these lands for farming purposes. Crown interests in these blocks were also subject to consolidation and exchange. The application of consolidation was often complex, time consuming and resource intensive.

7.64 Consolidation schemes involving Affiliate Te Arawa Iwi/Hapu land included the Rotomahana Parekarangi Scheme. The Rotomahana Parekarangi scheme was initiated in 1928 and involved the limited exchange of interests by the Crown and Maori. The scheme was developed in a number of instalments and completed in the 1950s.

7.65 Attempts were made between 1905 and 1928 to utilise funds of Land Boards and the Maori Trustee (who administered some Maori reserve lands and estates) to encourage the development of Maori owned lands. In 1929, the Government, led by Native Minister Apirana Ngata, introduced the notion of development of lands, both Maori and its own, by providing public funds to develop particular lands before they were settled by individual farmers. These development schemes were seen as a means by which a class of self-reliant Maori farmer would assist the emergence of new rural Maori communities centred on redeveloped marae. Schemes were also used as mechanisms for the provision of unemployment relief in the 1930s.

7.66 The owners of the land were not entitled to exercise any rights of ownership which would interfere with development except with the permission of the Minister. All development expenditure was a charge on the land for which a discounted rate of interest was charged. The Native Minister could declare land to be subject to development without the approval of all owners, and was empowered to bring the land into a state of production and make it fit for settlement. The Minister could, under the Maori Land Act 1931, have owners arrested for trespass.

7.67 Schemes in the Waiariki district relied upon the participation of groups of owners initially, and, from 1931, on contract labouring. When development reached a point where dairy production could start, the owners were required to nominate one of their own to occupy an individual farm. Problems of a lack of quality title and economies of scale did emerge and many of the 'settlement' type schemes saw a reduction in the number of participating owners and the number of individual farms.

7.68 The Waiariki district also saw 'station' type schemes. These were characterised by large scale development but with no attempt at settlement. These more expansive schemes, usually of poorer quality soils, were returned to owners for management by incorporation or trusts.

7.69 The administration of development schemes evolved over time. The original schemes were dependent for success on the cooperation of land owners whose efforts were often overseen by local leaders. The advent of the Board of Maori Affairs in 1935, and the introduction of a more bureaucratic model of administration by the Department of Maori Affairs, resulted in a distancing of the owners from meaningful say in the administration of their lands. While ad hoc advisory committees represented the owners, it was not until late 1949 that regularised annual meetings and the provision of accounts was instituted. Formal owner advisory committees emerged in the early 1970s. For the owners of some schemes it seemed that more than two generations passed while their lands remained under Departmental management.

7.70 Affiliate Te Arawa Iwi/Hapu placed land into more than 25 development schemes between 1929 and the mid-1980s. The first scheme was at Horohoro, south west of Rotorua. Ngati Kearoa Ngati Tuara and Tuhourangi entrusted some of their better lands to the Crown for development. The 3,019 acre Tikitere scheme on the southern shore of Lake Rotoiti commenced in 1931 on land which the Crown had mainly purchased from European owners. The introduction of non-Te Arawa Maori to work on the scheme led to Affiliate Te Arawa Iwi/Hapu taking unsuccessful action in the High Court to determine the beneficial ownership of the Crown lands in the scheme after the Crown considered settling some of the outsiders as long-term occupiers. This, along with the Crown's refusal to write-off the scheme's debt because it considered the debt was at a serviceable level, drew out the negotiations for the winding up of the Scheme.

7.71 Scheme lands had either been settled by long term lease or had begun to be returned to owner control in the early 1950s. By the early 1990s most scheme lands in the Rotorua area had been released from State control. Some schemes were successful while others struggled to fulfil expectations.

Public Works

7.72 The Crown acquired Affiliate Te Arawa Iwi/Hapu land through Crown acquisitions under public works legislation in the nineteenth and twentieth centuries. In the nineteenth century land was acquired for a number of public works purposes, including roading and railway. In the twentieth century, land was taken for internal communications, electricity generation, scenic reserves, forest plantation and an aerodrome. A number of these sites had geothermal features of significance to Affiliate Te Arawa Iwi/Hapu.

7.73 Early public works legislation established separate provisions for the taking of Maori land and general land. Compensation was generally paid for the taking of lands for public works, however, some of the lands of Affiliate Te Arawa Iwi/Hapu were used for roading purposes without compensation. Other lands were acquired for roading purposes under legislation which allowed Maori customary lands to be compulsorily acquired without compensation.

7.74 The Crown acquired lands of particular cultural and spiritual significance to Affiliate Te Arawa Iwi/Hapu for public works purposes. Between 1901 and 1907 the Crown compulsorily acquired approximately 42 acres of land at Okere Falls. This land, close to Lake Rotoiti on the upper Kaituna River, was included in the Okere power scheme that supplied Rotorua. There was a delay in finalising the compensation due to the Ngati Pikiao owners because of problems with the original proclamation under which some of the land was taken. They received £3,000 in compensation in 1910. The Okere Falls power station was closed in 1939 and the land was converted into a scenic reserve and added to the Rotoiti Scenic Reserve.

7.75 In 1902 the Crown established the Waimangu "Round Trip" to transport tourists across the isthmus between Lakes Rotomahana and Tarawera against local iwi opposition. The land was part of Te Ariki settlement that had been buried by the eruption of Mt Tarawera. In 1908 the Crown took 37 acres of Tuhourangi land on the isthmus under the Public Works Act for "internal communications purposes". The land was immediately brought under the control of the Minister of tourism. The Crown promised to return a 9 acre wahi tapu area after the 1908 taking but all of the land was designated a "Wildlife Reserve" in 1951, and then a "Scenic Reserve" in 1981. The wahi tapu area was not revested in Tuhourangi until 1982.

7.76 In 1961, unsuccessful negotiations between the Crown and Ngati Uenukukopako resulted in the taking of 193 acres of land at Rotokawa for the construction of Rotorua Airport, against the wishes of its Ngati Uenukukopako owners. The owners received compensation for this taking but the airport construction created significant disruption to Ngati Uenukukopako and required the relocation of the Ruamata wharenui and the lowering of the Ruamata urupa. These disturbances of their taonga caused Ngati Uenukukopako great sorrow.

Scenery Preservation

7.77 In the early 1900s the Crown introduced a scenery preservation policy aimed at protecting and preserving features and sites it considered were unique to New Zealand. The Crown aimed, with this policy, to assist the development and promotion of the country's tourism industry.

7.78 Some of the most scenic places in the Rotorua region were in Maori ownership. Legislation passed in 1903 allowing the taking of Maori land for scenery preservation purposes prompted protest from some Maori. Over one hundred Te Arawa Maori petitioned Parliament in 1904 to exclude the remaining Maori lands from scenery preservation legislation. The petition outlined their concern that the Maori lands that would be acquired under the legislation would be

> "the famous places, the lands containing thermal springs, the famous pas, the canoe landing places of former days, the sites of famous whares, the sacred whares, the bird snaring places of olden time, that is to say all such places as are understood by this Act as likely to be much frequented by the Tourists of the World who will visit here".

Following this, and other representations to the Minister, the power to compulsorily acquire Maori land was removed from scenery preservation legislation passed in 1906 but reinstated in the Scenery Preservation Act 1910.

7.79 Shortly after the passage of the 1910 Act 126 acres of Ngati Pikiao land, known as "Hongi's Track", was taken as a scenic reserve. In the 1920s Ngati Pikiao gifted land around Lake Rotoiti to the Crown which became the Rotoiti Scenic Reserve. Prior to the gifting the Crown had approached Ngati Pikiao for purchase, but terms could not be agreed. At the time of the gifting the Crown had been undertaking measures towards taking the sites under the provisions of the Scenery Preservation Act 1910. Ngati Pikiao made the gift in return for gaining a role in defining the boundaries of the proposed reserves, access to urupa, and retaining the management of the reserves by way of majority control on the Rotoiti Scenic Reserves Board.

7.80 Around the same time, Ngati Tarawhai gifted land around Lake Okataina to the Crown that became the Okataina Scenic Reserve, and Ngati Rongomai donated parts of the Waione block, on similar conditions as Ngati Pikiao had gifted the Rotoiti reserves. The Waione and Okataina Reserves were created by separate proclamation issued ten years later in May 1931. Altogether, Ngati Pikiao surrendered 2,338 acres of their land for scenic reserves between 1910 and 1931. Approximately half of this land was gifted to the Crown and half taken, with compensation paid.

Geothermal

7.81 The geothermal resource has always been highly valued and treasured by the Affiliate Te Arawa Iwi/Hapu, who consider it a taonga over which they have exercised rangatiratanga and kaitiakitanga.

7.82 Over time Affiliate Te Arawa Iwi/Hapu lost ownership of some geothermal lands through purchases and public works takings. For example, in 1960, land at Orakei-Korako, on the Waikato River, was taken from its Ngati Tahu owners and the area subsequently flooded for hydro-electric purposes. While Ngati Tahu received compensation for the loss of a house on the land the Maori Land Court determined that no compensation should be paid for the loss of the thermal resources, papakainga, urupa and other wahi tapu in the area because the majority of owners were no longer living on the land. Those who did live there relocated to other places. The main papakainga and urupa were returned to Ngati Tahu in the 1980s.

7.83 Despite the loss of lands containing geothermal surface features the geothermal resource was, and still is, central to the lifestyle and identity of Affiliate Te Arawa Iwi/Hapu. For example, hot pools and ngawha were, and are, used for cooking, bathing, heating and medicinal purposes.

7.84 With the passing of the Geothermal Energy Act 1953, the Crown established for itself, without the consent of the Affiliate Te Arawa Iwi/Hapu, the sole right to regulate use of the geothermal energy resource. The Affiliate Te Arawa Iwi/Hapu harbour a strong sense of grievance over this Crown action and consider that the Crown has failed to protect the interests of Affiliate Te Arawa Iwi/Hapu in relation to the geothermal resource.