

Te Horo Development Scheme

by Anita Miles

Waitangi Tribunal research series 1993/13

This report was commissioned by the Waitangi Tribunal
for the Te Horo 2B2B2 claim (Wai 149)

Any conclusions drawn or opinions expressed
are those of the author.

Waitangi Tribunal Division
Department of Justice
Wellington
1993

Contents

1. Introduction p2
2. The Claim p2
3. Background to Maori Land Development Schemes p3
4. The Claimant p5
5. Te Horo 2B2B2B p6
6. Part XXIV of the Maori Affairs Act 1953 p8
7. Background to Maori Affairs Involvement at Pipiwai p15
8. The Te Horo Development Scheme p18
9. The Purchase of Uneconomic Shares p22
10. Objectors to Amalgamation and Development p24
11. Partitioning p26
12. Complaint to the Ombudsman p28
13. Financial Management of the Te Horo Development Scheme and the Te Orewai Te Horo Trust p30
14. Time of Development p34
15. Sale and Revesting of Crown Shares in Development Scheme to Remaining Owners p34
16. Te Rau Hoterene's Application to Terminate Te Horo Te Orewai Trust over Family Interests p37
17. Issues for Tribunal Consideration p 37
18. Appendices p42

1 Introduction

This preliminary report outlines the establishment of the Te Horo Maori Land Development Scheme in 1966 at Pipiwai, Tai Tokerau. Mr Te Rau Moetahi Hoterene (also known as Te Rau Shortland) has lodged a claim to the Waitangi Tribunal objecting to his father's lands having been incorporated into the development scheme and to the administration of the enterprise since 1966. This report considers the background to the Maori Affairs Department programme for land development in this area, the amalgamation of title in 1965, the economic consequences for the owners of the land included in the scheme as well as considering the present proposals for returning Crown shares in Te Horo station to its beneficial owners.

My name is Anita Miles. I graduated from Victoria University in 1990 with an honours degree in anthropology and am currently enrolled in a masters' in social science research. I have research experience in historical and social research and have worked at the Tribunal since October 1991. I have completed reports on Oriwa 1B3 (Wai 67), Kopukairoa maunga (Wai 162), Maraehako C3D (Wai 224).

2 The Claim

On 21 May 1990 the Waitangi Tribunal received a claim from Mr Te Rau Moetahi Hoterene. This claim was placed on the register of claims as Wai 149. Mr Max Atkins of Lynch Atkins, barristers and solicitors of Whangarei, is acting for the claimant.¹

The statement of claim alleges that Mr Hoterene has been prejudicially affected by acts and policies of the Crown with regard to Maori land development schemes. Specifically, the claimant alleges:

1. his father, Mr Moetahi Te Rehu Hoterene, was a shareholder in several blocks of land at Pipiwai. The title to these blocks was cancelled and substituted by the one title of Te Horo, pursuant to section 435 of the 1953 Maori Affairs Act. Mr Hoterene (senior) objected to the amalgamation but his objections were overruled by the court
2. Maori Affairs farmed Te Horo as a land development scheme
3. As a result of this development, the Hoterene whanau had to leave their ancestral home and reside elsewhere. They do not presently have a sufficient land base for

¹ See appendix 1

Waitangi Tribunal Research Series: Te Horo Development Scheme

their families to settle

4. Instead of returning the station to individual beneficial owners in 1986, an order was made pursuant to section 436 of the Maori Affairs Act 1953 establishing Te Orewai Te Horo Trust which has run Te Horo station since that date

5. That Te Orewai Te Horo Trust mismanaged the land and failed to consult owners in their administration of the station and that, as a result, Mr Te Rau Hoterene has lost income from the date the trust began to administer the farm

6. that the claimant has made various representations to the Maori Land Court concerning the Te Horo development; however, the Court has not granted any relief to the claimant regarding his wishes to partition out his interests in Te Horo

The claimant states that these actions of the Crown are in breach of the principles of the Treaty of Waitangi.

Mr Hoterene petitions the tribunal to :

1. return his interests in Te Horo station to his control
2. determine compensation for the loss suffered by the claimant and his whanau for
 - deprivation of the ancestral home
 - resulting loss of income and use of his land
3. determine such other relief as the Tribunal considers appropriate

The claimant wishes this claim to be heard before a mediator appointed by the Waitangi Tribunal.

3 Background to Maori Land Development Schemes

The management and productive utilisation of Maori land, often held in multiple ownership or partitioned into uneconomic units, has long been an issue which administrators of Maori land have had to address.

The foundations of land development policies were laid by Sir Apirana Ngata in the 1920s in an attempt to remedy the rapid alienation of Maori land. Ngata pursued the policy of land consolidation and corporate management of Maori land which could provide better protection against the government's land purchase policies.

Waitangi Tribunal Research Series: Te Horo Development Scheme

The need for Maori land development, however, had been recognised years earlier. The Rees Commission of 1891 had advocated a policy of Maori land development and settlement, a solution which had impressed Ngata and encouraged him to press government for finance to be available to Maori communities to develop the land themselves. Initially, however, all Ngata could secure from Stout was support for the principle of developing Maori land.

Under section 122 of the Native Land Court Act 1894 and in the Native Land Act 1909, land incorporations could be set up and scattered interests consolidated into one block so that a whanau or individual could amass sufficient land to create a workable farm. Nonetheless, as Ranginui Walker has commented:

Ngata's consolidation scheme of exchanging small blocks of land among owners to create viable farming units was too slow to counter the speed at which land was being acquired by Pakeha under existing laws. The consolidation of 40,000 hectares on the East Coast by Ngata, although better than nothing, was poor consolation for his efforts. On the west coast, the Taranaki Maori were virtually landless. All that remained there were their reserved lands which were leased out to Pakeha settlers.²

In spite of this, Ngata was unable to get financial support from parliament for Maori land development until the 1920s. The delay frustrated Ngata who watched nearly a million hectares of Maori land alienated between 1911 and 1921.

Finally, Ngata was able to secure money from the Native Trustee to finance Maori farmers, to establish a Maori dairy industry and to train Maori farmers in pastoral agriculture.

These schemes instituted by Ngata were really the precursors of developments such as Te Horo. The Native Land Claims Amendment and Native Land Claims Adjustment Act of 1929 provided for development and settlement of Maori land under the direct control of Ngata as Minister of Native Affairs.

While the aim of these schemes was to provide a working economic base for Maori tribes, the process of consolidation and development was not without its problems, as the minister realised.

Aside from financial and administrative problems, there was the question of preserving the cultural needs of the communities. Consolidation had meant that some whanau had to give up interests in ancestral lands, land that conferred mana upon them.

As the control of Maori land development passed into bureaucratic hands, with the

² Ranginui Walker, *Ka Whawhai Tonu Matou*, (Penguin, Auckland 1990) p 180

advent of the Maori Land Boards, the issue of land owners' involvement in development became pressing.

Under the Native Land Amendment Act 1936 and the Maori Affairs Act 1953, land could be bought into development *whether or not* the owners consented to a development scheme and then, control of the programme was under the authority of the Maori Land Board.

At the heart of many objections to the Maori land development schemes is this issue of state encroachment and loss of *te tino rangatiratanga*, guaranteed to Maori under the terms of the Treaty of Waitangi.

The basis of Mr Te Rau Hoterene's claim to the tribunal, then, is his denial of the rights of the Crown to assume control of Maori land via the agency of the Maori Land Board. According to the claimant, neither Mr Hoterene nor his father Mr Moetahi Te Rehu Hoterene, gave consent to have their lands included in the Te Horo development. Thus, Mr Hoterene's claim can be seen to illustrate several of the problems that have occurred during the administration of the Maori land development schemes.

4 The Claimant

The claimant, Mr Te Rau Moetahi Hoterene, is of Ngapuhi descent of the Ngatihine hapu. He is a son of Moetahi Te Rehu Hoterene, who was a shareholder at the time of Te Horo amalgamation.

According to a Maori Land Information Office search, Moetahi Te Rehu Hoterene was a shareholder in eight blocks of land, three blocks of which were amalgamated into the Te Horo title in 1965. Those three blocks were:³

- 1) Kaikou A4E - 354:0:37 acres holding 374 out of 2417.589 shares and being one of 11 owners
- 2) Kaikou D3 - 173:0:04 acres holding 51.136 out of 866.666 shares being one of 74 owners
- 3) Kaikou X - 756:1:26.5 acres holding 1535.362 out of 7410 shares and being one of 22 owners

³ Moetahi Te Rehu Hoterene also had interests in : Motatau 2 Section 52B, Motatau 2 Section 64B, Motatau 2 Section 16B2, Maungapohatu North and Kaikou 3 Lot 11A.

Waitangi Tribunal Research Series: Te Horo Development Scheme

Moetahi Te Rehu Hoterene was shown as shareholder number 289 on the ownership schedule of Te Horo.

When Moetahi died in January 1976, his shares were vested in his wife Rangi Shortland (or Rangi Hone Kopa or Anamaraea Rangi Shortland) as executrix of his estate. She then applied to the court pursuant to section 81 of the Maori Affairs Amendment Act 1967 to have his shares in Te Horo, amounting to 1270.338, transferred to herself. This was granted by the court on 11 June 1979.⁴

Rangi Shortland died at Whangarei on 26 October 1979 and Te Rau Hoterene applied under section 78(A) of the Maori Affairs Amendment Act 1967 to succeed to her shares. The court determined that Te Rau and nine others were entitled to succeed equally in terms of Rangi Shortland's will at a Maori Land Court hearing on 12 June 1989.⁵

Te Rau Moetahi Hoterene is shown as shareholder number 114 on current list of owners of Te Horo 2B2B2B and owns 129.973 shares out of a total of 29 148.766.

5 Te Horo 2B2B2B

Te Horo station is situated at Pipiwai, approximately 32 kilometres north west of Whangarei city. It lies within blocks X, XIV and XV of Motatau survey district and blocks II and III of Mangakahia survey district. Te Horo is shown on ML 15722.⁶

The scheme totals 3075 hectares (7599 acres) approximately in area making it one of the largest Maori land development schemes in the region. The farming operation at Te Horo over the past twenty five years has primarily been sheep, dairying, forestry and horticulture.

The land at Pipiwai rises from river flats over easy rolling to moderately steep land on the boundaries - a range of 100 to 900 feet in altitude. Soil quality varies from fertile alluvial flats surrounding the Kaikou river to low fertility hill soils.

Te Horo 2B2B2B title has evolved by a series of partitions from the amalgamation date in 1965:

1. 30 August 1973 Partition for a house site to Namatahi Waa (Te Horo no 1).

⁴ Refer RW 2/245 and RE 2/286

⁵ Refer AT 11/306-307

⁶ Refer to appendix 2 to view location and cadastral maps

Waitangi Tribunal Research Series: Te Horo Development Scheme

- Te Horo no 2 to 114 owners⁷
2. 24 February 1974 Partition for house site to Henare Tipene (Te Horo 2A).
Te Horo 2B to 114 owners⁸
3. 14 January 1976 Partition for urupa (Te Horo 2B1). Te Horo 2B2 to 117
owners⁹
4. 16 June 1977 Partition for house site to Winiata Shortland (Te Horo 2B2A).
Te Horo 2B2B to 118 owners¹⁰
5. 10 October 1984 Partition for house and horticultural project to Heeni Black
(Te Horo 2B2B1). Te Horo 2B2B2 to 161 owners¹¹
6. Partition for house site and market garden to Michael Daniels (Te Horo
2B2B2A). Te Horo 2B2B2B to 168 owners¹²

By virtue of section 435(9)(A) Maori Affairs Act 1953, Te Horo 2B2B2B is Maori freehold land.

At a sitting before Judge H B Marumaru on 8 September 1986 at Whangarei, the court approved application for the setting up of an owners' trust to assume administration of Te Horo station pursuant to section 438 of the Maori Affairs Act 1953. The trust is known as the Te Orewai Te Horo Trust and its current chairman is Mr C Tipene.¹³

⁷ See 49 Whangarei 95

⁸ See 49 Whangarei 95

⁹ See WH 51/287

¹⁰ See WH 53/90

¹¹ See WH 63/101

¹² See WH 63/219 and WH 66/129-130. See partition order and schedule of owners for Te Horo 2B2B2B, dated 27 October 1987, attached as appendix 3

¹³ Refer WH 62/52, 64/372, 65/131. Trust order dated 8 September 1986 vests Te Horo 2B2B2B in :

John Taite Davis
Motatau Wati Shortland
Wati Hauraki
Heruika Peihopa
Tame Palmer
Hare Hirhana Tipene
Samuel Armstrong
Christina Gaewynne Lyndon
Manuel Paul

After the establishment of the owners' trust, Te Horo was formally released from the provisions of part XXIV by a gazette notice published on 9 June 1988.¹⁴

6 Part XXIV of Maori Affairs Act 1953

Section 327(1) of the Maori Affairs Act 1953 states that the main purpose part XXIV is to "promote the occupation of Maori freehold land by Maoris and the use of such land by Maoris for farming purposes". Put simply, land development involves the provision of state funds for the development and settlement of Maori land.¹⁵

Land development was intended to progress in stages. Initially, intense capital development was designed to establish a maximum stock carrying capacity for the block. Then came the consolidation phase to improve the block's stock production and then came the debt reduction stage in which farming profits were directed at reducing the development debt. At this point, it was usually intended that settlement was for trained Maori individuals who would have secure tenure with which to raise further development finance if necessary.¹⁶

Prior to the 1953 legislation, the Minister of Native Affairs was given the power under the 1929 Native Land Amendment and Native Land Claims Adjustment Act to declare land subject to development provisions and to suspend owners' occupation rights so that development could commence and occupiers be appointed. These powers were carried forward into the 1953 legislation; however, it is the Board of Maori Affairs which is given extensive powers in the pursuit of land development.¹⁷

Trust order attached as appendix 4

- ¹⁴ Refer *New Zealand Gazette* no 98, 9 June 1988, p2331 attached as appendix 5
- ¹⁵ See *Native Land Administration and Native Land Claims Adjustment Act 1922* which empowered the Maori Land Boards to allocate money to development schemes
- ¹⁶ *Report of the Waitangi Tribunal on the Waiheke Island Claim (Wai 10)*, Waitangi Tribunal 1987, p 17
- ¹⁷ Refer *Maori Land Settlement Act 1905* which established Maori Land Boards.

Under section 5 of the Maori Affairs Act 1953, the Maori Land Board is constituted by the Minister of Maori Affairs, the Secretary for Maori Affairs, the Director-General of Lands, the Valuer General, a member of parliament representing a Maori electorate, a nominee from the New Zealand Maori Council and three other Maori appointed by the Minister.

Waitangi Tribunal Research Series: Te Horo Development Scheme

Under section 330, the board has the power to declare any Maori freehold land or general land owned by Maori to be subject to the provisions of part XXIV.¹⁸ However, section 330(3) compelled the board to "take adequate steps to ascertain the wishes of the owners concerned" and the board was not to declare lands subject to development until all objections to such a scheme had been fully considered.

Although the legislation did not specifically provide for calling meetings of owners to pass resolutions to bring land under part XXIV development, it can be inferred from section 330(3) that this was necessary if the board was to note the wishes of the owners concerned.

Mr S Edwards, a Maori Affairs officer, commented in 1962 on the methods used by Maori Affairs to explain to Maori owners the implications of part XXIV development :

Since 1929 the manner and methods in calling meetings of owners to consider development proposals has very often been the subject of adverse criticism and delays. Rules of procedure have been approved and amended from time to time, but even the current rules, in so far as the conduct of proceedings at the actual meetings are concerned, are not in my opinion of sufficient explicitness.¹⁹

Having consulted with the owners of the land in question, however, the board may then proceed to declare such land subject to part XXIV whether or not all owners affected by the proposals agree to development.

The board may declare Maori freehold land subject to part XXIV by placing a notice to that effect in the New Zealand Gazette. The board has the authority to spend money on the development of land without any form of security other than gazetting the land subject to part XXIV.

It should be emphasised that while Maori land is under development, section 328

Under sections 7 and 8, part IV of the Maori Affairs Amendment Act 1974, the Board of Maori Affairs was abolished and substituted with the Maori Land Board which was charged with the responsibility of administering land development

Maori Land Boards were abolished pursuant to section 11 Maori Affairs Restructuring Act 1989

¹⁸ Crown land could also be declared subject to the development provisions in certain circumstances. See section 331 of the Maori Affairs Act 1953 and section 20 Maori Affairs Restructuring Act 1989

¹⁹ S Edwards, Maori Affairs file Differentiation between Maori and European - Land Development Part 24/1953, MA 19/10/18, 31 October 1962

Waitangi Tribunal Research Series: Te Horo Development Scheme

safeguards the title to the land of the Maori owners. Thus, although Moetahi Hoterene's interests in land were incorporated into Te Horo title, section 328 preserved his legal ownership of his land even though the control of that land was to be exercised by the Maori Land Board.

Having supervision over development, the board could exercise rights of exclusive occupation, or confer that right onto a nominated occupier, a lessee or the owner(s). Kawharu makes clear that the nomination of non-owners as occupiers is "naturally contentious".²⁰ Owners may have had to agree that resettlement may not take place until the development debt is sufficiently reduced (to approximate current market value of stocks and chattels).

The board could also require further development conditions. For example, owners may have had to agree to cancel partitions and amalgamate titles, or to allow the Maori Trustee to purchase uneconomic shares.

The view that the 1953 Act gave the Maori Land Boards extraordinary powers have often been expressed in critiques of development scheme philosophy and administration.

Henare Ngata, in discussion concerning laws in contravention of the Treaty of Waitangi, summarised many of the misgivings Maori felt in handing over control of their land to a bureaucracy:

While the schemes have brought about considerable improvements to the land, among owners some disillusionment has resulted. There have been many successes, but far too many schemes have produced disappointing results, many having been under a heavy burden of debt for a long period, some for over thirty years. The Department of Maori Affairs has on many occasions been accused of inefficiency and mismanagement - charges which the Department has denied, without, however, completely satisfying or convincing the Maori owners. "Empire building" is another charge levelled against the Department, especially by those disenchanted owners whose lands have been burdened by debt for many years. Altogether the public relations surrounding the Department's administration of the Development Schemes leave a great deal to be desired. Owners in many districts say that as the land is theirs, they ought to be given some voice in the administrative decisions. The land they say is only in the custody of the Department for a while, and they ought to be given some experience and practical knowledge in running their own properties. While token concessions have been made in recent

²⁰ I H Kawharu, *Maori Land Tenure-Study of a Changing Institution*, (Oxford University Press, Auckland, 1977) p 136

years, in practice they have had little substance.²¹

The 1978 Mete-Kingi report, too, noted the ambivalence some Maori felt toward effective loss of control over land in development schemes and commented that these feelings remained despite the department having gone some way to rectify the problem by maintaining closer liaison with owner development committees.... "They still see a need to have owners living on their ancestral lands 'to keep the marae warm'".²²

Mete-Kingi recommended the government guarantee that part XXIV stations be returned to owners after not more than 25 years development and with a debt loading equivalent to no more than the value of livestock and chattels carried at the time. The report also suggested that Maori owners be paid a rental while their land was under development.

In spite of their problems, the Mete-Kingi report considered part XXIV schemes to be the best way to develop "the more difficult areas" and noted that the schemes had succeeded in bringing a considerable amount of unproductive land into use.

Sadly, the report concludes that it is necessary for those running the schemes to make "a concerted move towards improved public relations", implicitly acknowledging that the relationship between the Maori Land Boards, Maori Affairs and Maori owners was in need of some repair.

Better communication aside, McHugh feels that the source of the problem lies in the power that the board has...

...the owners, feeling that control of their land has been taken out of their hands, often adopt a "care-free" attitude. That attitude comes from an inability to identify with Department policy, a problem which the Department makes little effort to overcome. Thus, the writer has heard accounts of farm equipment being sloppily handled by Maori workers on their own Development Schemes - "This tractor belongs to the Department and if it breaks down they'll fix it so I needn't take proper care of it" is the typical rationale. That reasoning process is understandable given the power

²¹ H Ngata, "The Treaty of Waitangi and Land : Parts of the Current Law in Contravention of the Treaty" in *The Treaty of Waitangi: Its Origins and Significance*, (VUW Department of Extension, Wellington, 1972) p 52 quoted in P G McHugh, *Maori Land Laws of New Zealand: Two Essays*, Studies in Aboriginal Rights No 7, University of Saskatchewan Native Law Centre 1983, p 64

²² W Te R Mete-Kingi, *Report of the Committee Appointed to Investigate Problems Associated with Farming Maori Leasehold Land*, (Unpublished, May 1978) p22

Waitangi Tribunal Research Series: Te Horo Development Scheme

structure in which these schemes operate".²³

To many critics, a fundamental problem which underpins part XXIV development is a philosophy which is insensitive to views of land other than as an economic resource. McHugh terms Maori land legislation as "assimilationist" in nature; that is, it sees land as an individually owned, readily-saleable asset and neglects the social role that land has for many Maori.²⁴

Often, part XXIV development entails amalgamation of interests in land, as detailed below for Te Horo. This is done in order to achieve an economic unit of production as well as to simplify title.

Amalgamation involves individual owners substituting a shareholding in an individual block or blocks for a smaller shareholding of a larger single unit. The value of the holding, relative to other interests, remains the same.

There can be disruptive consequences of amalgamation, especially if it occurs on occupied holdings such as those at Te Horo.

Amalgamation in these circumstances can result in emigration of a large proportion of the resident population, leading to severe consequences for a small rural community which may already suffer from migration to urban centres. Kawharu has commented on the implications of urban migration:

Although first thoughts might well be directed toward purely economic considerations...the preservation of one's *Maoritanga* - one's Maori identity and self-respect - should also be kept squarely in view. And nothing could jeopardize *Maoritanga* more surely than the disintegration of the community, the well-spring of the people's heritage.²⁵

There may also be problems when individual owners within particular whanau groups wish to retain their position as land holders on small units. Thus, some owners in the amalgamated Te Horo title, including the present claimant, criticise the lack of identification and respect for whanau papakainga areas within Te Horo 2B2B2B.

Related to this issue are the intra- and inter-family disputes which can arise in the context of deciding who ought to be occupier of amalgamated holdings. There is an

²³ P G McHugh, *Maori Land Laws of New Zealand: Two Essays*, Studies in Aboriginal Rights No 7, University of Saskatchewan Native Law Centre, 1983, p 65

²⁴ *ibid* p68

²⁵ *ibid* p 120

obvious potential for division within the community.²⁶

One of the most undesirable side effects of title amalgamation and consequent dispersion of resident owners is that owners who are disassociated from the land were more likely to sell their shares. This inclination was compounded as owners had to face the cost of relocation of their families, often a considerable distance from the scheme. While those who have sold shares may receive little sympathy from remaining owners in a block, the writer feels that there should be consideration of the pressures applied by a willing and enthusiastic trustee to these owners to sell as well as financial pressures felt during relocation.

This leads to a discussion of share conversion which was often employed in an attempt to simplify title to land development schemes.

The utilization of share conversion to arrest fragmentation of interests in multiply owned land is termed "reform by disenfranchisement" by McHugh.²⁷ Share conversion involves removing an individual's interest in Maori land, and thereby reducing the number of owners on the title to the block.

Share conversion could be either voluntary or compulsory. The legislation permitting conversion is to be found in sections 137, 151 and 152 of the Maori Affairs Act 1953. Part XIII establishes the conversion fund for the acquisition of Maori land by the Maori Trustee. Section 151 states that the Maori Trustee may purchase any interest in Maori freehold land from the conversion fund. This is termed 'live buying' of uneconomic shares. This could be done without a court order; certificates were issued by the trustee confirming the sale and purchase of the interest. Pursuant to section 152, the trustee could then resell this interest to another Maori. McHugh notes that while interests sold to the Maori Trustee remain in Maori hands, when he resells these interests they do not necessarily stay in any family, hapu or clan. This has the potential to cause social disruption.²⁸

Compulsory acquisition of shares occurred under section 137. This section states that the Maori Land Court could not vest an uneconomic share in any person other than the Maori Trustee. Section 137(3) defined an uneconomic interest as a beneficial freehold interest which did not exceed £25 in value. These shares were also purchased from the conversion fund.

²⁶ *ibid* p 120

²⁷ P G McHugh, *The Maori Magna Carta - New Zealand Law and the Treaty of Waitangi*, (Oxford University Press, Auckland 1991) p352

²⁸ P G McHugh, *The Fragmentation of Maori Land*, (Legal Research Foundation Publication No 18, 1980) p 21

Waitangi Tribunal Research Series: Te Horo Development Scheme

Note that via section 139 the Maori Trustee could decline to accept an uneconomic interest. If declined, the share/s are vested in the beneficiary or the Court could dispose of it pursuant to section 136, known as the £10 rule. This enabled the Court to vest an interest worth less than £10 in any other person beneficially interested in the land and was, thus, seen to be complementary to share conversion.

Although both the Hunn and Pritchard-Waetford reports were enthusiastic about conversion and proposed to accelerate buying uneconomic shares, Kawharu amongst others has noted that the "solution" of share conversion was partial at best. He observes that fragmentation resumes when the person who has bought an uneconomic interest dies and their shares are divided amongst heirs (unless they remain with the Maori Trustee). This is one reason why in practice, the Department of Maori Affairs has re-vested schemes in owners constituted as a trust or incorporation. By resisting settling individuals on developed land it hoped to bypass problems of multiple ownership which contributed to the land coming under part XXIV development in the first instance.

As both McHugh and Kawharu make clear, share conversion, especially compulsory conversion, was condemned by many Maori for not taking account of turangawaewae. Consider McHugh's comments on this point:

In the past, turangawaewae was dependent not only upon qualification by descent but also upon an individual occupying or living near his kinsgroup's land. Economic factors such as increasing rural mechanization and better job opportunities in the cities produced the mid-century urbanization of the Maori. It was realised that leaving ancestral lands was not a renunciation of kinsfolk (as it once had been), but rather a move compelled by economic forces. Thus, turangawaewae came to be associated with possession of a legally recognized interest in Maori land.²⁹

The implication here is that by compulsorily removing an individual's interest in land, the court may be depriving that owner of his or her turangawaewae. There appears to be no consideration of why a Maori would succeed to an uneconomic interest which was, to all intents and purposes, of no real economic value in itself. It could also be argued that conversion deprives an owner of the possibility of their shares improving in value once development is complete.

For the reasons outlined, several observers contend that compulsory conversion is in direct violation of the Treaty of Waitangi.³⁰

²⁹ McHugh 1983 p 78

³⁰ See for example D Sinclair: "Land since the Treaty, the Nibble, the Bite, the Swallow" in M King (ed) *Te Ao Hurihuri* (1975)

Live buying by the Maori Trustee in practice did little more than ensure the Maori Trustee's presence as a major shareholder in many blocks of Maori freehold land...Live buying and the compulsory acquisition of shares in Maori land (including Maori reserved land) not only gave the Trustee a large ownership profile in many blocks; it also introduced an owner with the power to sell his shares, unrestrained by the kin affiliations of the other owners. This was obviously a Treaty violation, and the practice has been discontinued.³¹

Matiu Rata as Minister of Maori Affairs under a Labour government abolished compulsory conversion of shares under section 22(2) of the Maori Affairs Amendment Act 1974. However, this still left the trustee with ownership of those shares acquired under section 137 of the 1953 Act. This was rectified by the Maori Affairs Amendment Act 1987 which required the reversion of compulsorily acquired shares in those original owners or their successors from whom they were taken.

Live buying was not abolished in the 1974 legislation even though some Maori argued that an individual held their land interests in trust and were therefore not entitled to disenfranchise future generations. Instead, live buying ceased with the introduction of section 2 of the Maori Affairs Amendment Act 1987 which replaced Part XIII of the Maori Affairs Act 1953 which had established the conversion fund. The 1987 amendment abolished the conversion fund and required the Maori Trustee to reversion all shares acquired via live buying or compulsorily in the owners of the land concerned. (As stated above, this changed in 1989 when the trustee was obliged to return compulsorily acquired shares in original, as opposed to current, block owners).

Under part II of the Maori Affairs Restructuring Act 1989 the responsibility of administering part XXIV schemes passed to the Iwi Transition Agency and thence to Te Puni Kokiri, established under the Ministry of Maori Development Act 1991.

7 Background to Maori Affairs Involvement at Pipiwai

In order to understand the founding of the Te Horo development scheme at Pipiwai, it is necessary to appreciate the economic and political context in which Maori Affairs was operating at the time.

In early 1960 a committee of investigation headed by the acting secretary for Maori Affairs, J K Hunn, toured the Bay of Islands and Whangaroa counties with the aim of determining the extent of undeveloped and reverting Maori lands in these areas.

³¹ McHugh 1991 p354

Waitangi Tribunal Research Series: Te Horo Development Scheme

This inquiry had been prompted by correspondence with the secretary of a Northland dairy company who had drawn attention to the number of Maori dairy holdings which had reduced or ceased production.³²

The committee was given much support by local authorities in these counties who were concerned with the drift of Maori away from rural communities. The concern of local bodies reflects the pressures exerted as rating incomes dropped and the secondary effects of urbanisation were felt in the form of falling school rolls and overall declining economic activity.³³

As Kawharu points out, by 1960 Maori tribal land had come to be seen as a factor of production not only in the local economy but also significant for the national economy.³⁴ Hence, idle Maori land was not only seen to effect the local Maori population but Pakeha economic well being too.

Pinpointing the reasons for the Maori drift to urban centres, Hunn considered the uneconomic size of many holdings and multiple ownership were chiefly to blame for Maori, unable to maintain viable farming units, seeking employment in the cities... "if these two obstacles can be overcome then the problem can be solved".³⁵

Addressing the two interconnected problems of uneconomic shares and title fragmentation, Hunn proposed the solution of further land development schemes run by the department in concert with share conversion :

The object of policy must be to amalgamate the innumerable small holdings into economic farm units. In the ordinary course of the Department's work this has been done in individual cases from time to time as opportunity offered, but it has never been done comprehensively or continuously as a special programme. It must now be tackled resolutely as a feature of the Department's land activities, in order to bring the land back into full production before it reverts too far to be rehabilitated except at heavy cost.³⁶

³² Maori Affairs file, Reverted Lands -Whangarei 1959-1960, MA 48/2/1 part 1

³³ It is interesting to note that the investigating committee accepted that Maori undeveloped land accounted for only 20% of undeveloped and reverted land in Northland. These figures were derived from a land utilization survey which was published by the Lands department in 1955. Refer Maori Affairs file MA 48/2/1 part 1 folio 298

³⁴ Kawharu 1977 p310

³⁵ J K Hunn, Chairman of Investigating Committee, 28 June 1960. Maori Affairs file MA 48/2/1 part 1, folio 301

³⁶ J K Hunn "Drift of Maori Farmers from the Land in Northland", 28 June 1960. Maori Affairs file MA 48/2/1 part 1, folio 300

Following on the heels of this investigation, the Hunn Report was released in August 1960 and underlined the direction which the department was to take with regard to development schemes.

Hunn summarised what he considered to be "formidable" reasons in favour of increasing large scale development, including a rapidly growing Maori population, future costs of development, and income from increased exports. However, he reiterated that development could only proceed as fast as title complications were able to be resolved and, to this end, encouraged Crown purchase of multiple interests.

Along with conversion, whereby uneconomic interests in land were purchased by the Maori Trustee, Hunn considered live buying of shares (shares sold voluntarily by owners to the trustee) to be what he termed a "force of integration" with respect to reform of Maori land title.

While strongly advocating the use of these measures to simplify land title and, thus, utilisation of the land, Hunn conceded that conversion and live buying did not have unqualified support in the Maori community:

Through misconception, conversion has, in some districts, been called confiscation. In its aim of retaining Maori land in Maori ownership, it achieves the very opposite of confiscation.³⁷

This misconception most likely arose due to differing views held by Hunn and those Maori objecting to compulsory conversion as to the meaning and significance of turangawaewae. Hunn conceded that turangawaewae was still an important feature of Maori culture which explained reluctance to readily sell fractional interests in land. He believed, however, that it would be preferable if Maori "with customary realism" came to regard the ownership of a modern home in town (or country) ... as a stronger claim to speak on the marae than ownership of an infinitesimal share in scrub country that one has never seen...so small as to be scarcely a token of ownership".³⁸

While a critique of this philosophy will be addressed later in this report, we can summarise Maori Affairs' attitude at this time as based on the belief that multiple ownership of land, and fragmentation of title, were serious obstructions to the utilisation of Maori land. With this in mind, Hunn quotes Ngata as encapsulating the spirit of land development schemes:

³⁷ J K Hunn, *Report on the Department of Maori Affairs*, (The Hunn Report), (Government Printer, 24 August 1960,) paragraph 146, p55

³⁸ *ibid* paragraph 137, p52

Only those lands which the Maoris themselves will usefully occupy will remain or be allowed to remain to them.³⁹

This report will turn, then, to examine the repercussions of Hunn's policies and the provisions of part XXIV of the Maori Affairs Act 1953 on the community at Pīpiwai.

8 The Te Horo Development Scheme

Although the Te Horo land development commenced in 1966, negotiations to gain owners' consents to the amalgamation of some sixty titles began several years before this date.

Maori Affairs viewed a proposed development scheme as part of an overall rehabilitation of the Pīpiwai district. This area was seen as "a backward one almost solely Maori occupied" which had given rise to a multiplicity of problems for the department.⁴⁰ Pīpiwai had received much publicity in the wake of Hunn's tour of Northland and because of an outbreak of typhoid in the district.⁴¹ Conditions being what they were, it was considered that the department be held responsible for the welfare and protection of the Pīpiwai community.

Prior to the establishment of a development scheme, and as part of the department's programme of improvements at Pīpiwai, Maori Affairs had established five economic farming units in the area. However, in 1960, investigations were underway to pursue the possibility of setting up a development scheme in the area:

In the long term interests of the district it is probable that development of a large area on a face would be the most suitable form of development with the

³⁹ *ibid* p119

⁴⁰ J M McEwen, 5 April 1966, Maori Affairs file HO 61/51 Te Horo Development Scheme Title volume 1 folio 89

⁴¹ See the following press clippings for examples of the publicity Pīpiwai received circa 1960:

New Zealand Herald (9/5/1960) -

"Main problem multiple ownership :Idle Maori farms in Northland"

Northern Advocate (12/4/1960) -

"Good land lying idle at Pīpiwai he says"

Northern Advocate (16/4/1960)

"North Auckland Power Board to tell North M.P.'s, Minister they should be ashamed"

Department farming the land for a number of years. In this way prospective settlers from the youth of the district could be properly trained in farming methods outside the district with a view to taking over the subdivisions as they become available. This would overcome one of the main difficulties with settlement in the district, namely, the ability of the people as farmers.⁴²

While there is evidence that the people of Pipiwai wanted more unit development, it is not clear that the community endorsed full scale development, at least initially.

The assistant district officer, K Laurence, reported to head office that the majority of land owners at Pipiwai were hesitant about a development scheme because of the possible loss of occupation rights which would be regulated by the Board of Maori Affairs in the event of full development.⁴³ Other papers point to a troubled relationship between the Pipiwai community and the department:

Earlier attempts at title improvement with a view to land development and the rescue of rapidly reverting farm land have failed due to antagonistic elements among the Maori population. Some four years ago when it appeared likely that the scheme could be got underway more than £5000 worth of land interests were acquired by the Maori Trustee involving a great deal of patient work on the part of the officers concerned but again a meeting of owners turned the scheme down.⁴⁴

Apparently, it was the successful introduction of unit development at Pipiwai over a number of years which finally persuaded many Maori land owners to agree to a part XXIV land development scheme... "this has helped to restore the confidence of these people in the Department".⁴⁵ A submission prepared by a district field officer in February 1988, however, commented that the owners' agreement to development was "reluctant", their hand being forced by the poor social and economic conditions of the population.⁴⁶ Christina Lyndon suggests that it was the need for employment

⁴² K Laurence, Assistant District Officer, 21 April 1960, Maori Affairs file, Reverted Lands -Whangarei 1959-1960, MA 48/2/1 part 1

⁴³ K Laurence, 20 April 1960, Maori Affairs file, Reverted Lands -Whangarei 1959-1960, MA 48/2/1 part 1

⁴⁴ J M McEwen, 5 April 1966, Maori Affairs file HO 61/51 part 1

⁴⁵ *ibid*

⁴⁶ C C Fox, District Field Officer, Te Puni Kokiri, 2 February 1988, Maori Affairs file HO 61/51/1 volume 8

in the district which prompted representations from the tribal committee.⁴⁷

Many meetings were called by Maori Affairs throughout 1965 in an effort to reach agreement on development proposals. On 8 October 1965 T A Love, the deputy registrar of the Tokerau Maori Land Court, wrote to the owners of those blocks affected by the development proposals. In this letter, the owners were notified of a meeting to consider the amalgamation and repartition of their lands.⁴⁸

Accordingly, a meeting was held at the Tau Henare hall, Pipiwai, on 20 October 1965 where Maori Affairs officers argued that the Pipiwai lands could be farmed more efficiently collectively. Notes on this meeting held in Maori Affairs files show that Moetahi Hoterene is listed as being one of those against amalgamation of lands in which he was a shareholder.⁴⁹

As a consequence of this meeting, and in spite of several major individual shareholders objecting to the scheme, an application was made to the Maori Land Court for amalgamation of titles under section 435 of the Maori Affairs Act 1953. According to a report filed with the Board of Maori Affairs, the court was under pressure from the health department, the county council, mainly non-Maori neighbouring farmers and the public at large to make the Pipiwai valley an economic contributor to the welfare of the region.⁵⁰

At a court sitting to consider the application, held in Whangarei on the 17 December 1965 before Judge K Gillanders Scott, the Department of Maori Affairs outlined its concerns at the state of development in the Pipiwai Valley.

The department pointed to the alleged squalid and unhealthy housing facilities, the reverted and undeveloped condition of the lands, the supposed inadequate use of land by its owners, the non-payment of rates, the lack of finance to fence boundaries and the resultant problem of livestock control as evidence that the Pipiwai valley needed state supervision if it was to become viable farming country.

Under cross-examination Mr Hoterene admitted that he was a full-time worker at the

⁴⁷ Christina Lyndon, *The History of the Amalgamation of the Pipiwai, Kaikou, Omanene and Mangakowhara Lands into the Te Horo Development Scheme*, 25 July 1983, Maori Affairs file DO 18/28, p1

⁴⁸ TA Love, Deputy Registrar Maori Land Court Whangarei, 8 October 1965, Maori Affairs file DO 18/28 volume 1

⁴⁹ Maori Affairs file DO 18/28 volume 1. Copy of minute attached as appendix 6

⁵⁰ CC Fox, District Field Officer, 2 February 1988, Maori Affairs file DO 18/28; HO 61/51/1

City Corporation Electricity Department at Wairua Falls, with the court commenting that Mr Hoterene's ... "farming activities appear to be in the nature of a side line".⁵¹ Mr Hoterene conceded that his land had reverted in the past "few years" and that he had topdressed his farm land only once. However, he told the court that he intended to lease part of his lands to raise finance with which to upgrade his property.

Considering Mr Hoterene's and others' objections, the court stated that:

A number of owners gave evidence in Court opposing amalgamation. In each case the Court has come to the conclusion that the objections put forward are not of sufficient merit to call for exclusion of any lands from the application...

As to Moetahi Te Rehu Hoterene... Mr Hoterene is no stranger to the Development Section of the Department, he having been from time to time a "unit" in respect of his late mother's lands. Reports extending from February 1951 down to April 1957 clearly show that he made little effort to discharge his obligations or to work diligently upon the land. The long and short of it is that those reports are to the end [sic] that he was a most unsatisfactory unit and the property was badly maintained. In all the circumstances [sic] the Court is of the view that his objection is one which cannot be maintained. The Court has no doubt whatever but that the lands following, held as they are under separate titles, could be more conveniently and economically worked or dealt with if held in common ownership under one title.⁵²

The court also underlined the point that the Department of Maori Affairs had been canvassing the "bulk" of Maori owners as to their opinion on the scheme, which had also been vetted by the farming committee of the Pipiwai Tribal Committee, and had come to the conclusion that...

it is patent from the hearing itself that the scheme is one well favoured by the vast majority of its owners.⁵³

Consequently, the court made an order pursuant to section 435 of the Maori Affairs Act cancelling owners' existing titles, including Mr Hoterene's, and establishing the

⁵¹ Whangarei 14 MB 115-121

⁵² *ibid*

⁵³ *Ibid*. It is interesting to note in the hearing minutes that when the Court enquired whether the owners were in support of the application to amalgamate, a body of owners admitted that they were unable to identify that lands in which they may have been owners

one title of Te Horo.

Te Horo development scheme was gazetted pursuant to section 330 of the Maori Affairs Act 1953 on the 23 June 1966.⁵⁴

9 The Purchase of Uneconomic Shares

According to a report on the amalgamation of Pipiwai lands into the Te Horo development scheme, the Maori Trustee gained approval to commence buying uneconomic shares in Pipiwai blocks in late 1960.⁵⁵

At the court hearing to amalgamate owners' interests in 1965, the court informed the assembled owners that the Maori Trustee had the authority to purchase their uneconomic interests but pointed out that this would only proceed with their consent:

...but let it be clearly understood that the policy is not to exercise the power which the Maori Trustee has of compulsorily buying out. It does not happen in this district. If you make application yourself the Maori Trustee will buy you out but if you don't make application he won't do anything about the matter. Is that quite clear?⁵⁶

However, in August 1966 a submission was prepared by Maori Affairs which recommended that approval be given for further Crown purchase of shares in six land development schemes, including Te Horo, in the Tokerau district. At this point, Crown shareholding was 1499.020 shares of 30 973.262 shares.⁵⁷

Citing the Pritchard-Waetford report, the submission argued that the Crown acquisition of uneconomic shares was desirable as a means of title improvement. The submission stated that there were (then) 543 owners in Te Horo but that it was not possible to forecast what demand there would be to sell shares to the Crown. However, Maori Affairs stated that they received requests for realization of shares "from time to time" and asserted that there was a large number of absentee owners and other others who wished to sell shares for the purposes of housing and relocation.

⁵⁴ See appendix

⁵⁵ Christina Lyndon, *The History of the Amalgamation of the Pipiwai, Kaikou, Omanene and Mangakowhara Lands into the Te Horo Development Scheme*, 25 July 1983, Maori Affairs file DO 18/28

⁵⁶ Whangarei 14 MB

⁵⁷ Board of Maori Affairs approval to buy uneconomic shares in Te Horo attached as appendix 7

The submission, which sought approval for an annual allocation of £10 000 on buying uneconomic shares in the region, was approved by the board on the 6 October 1966.

On 1 December 1966 an application was made to the Maori Land Court pursuant to section 445 Maori Affairs Act 1953 to enable the Maori Trustee to purchase *all* uneconomic shares in Te Horo. According to court records, no specific notice of the application was sent to owners but was advertised in the panui. Consequently, only sixteen Te Horo owners were present at the court sitting.⁵⁸

The shares were valued on a pound per share basis which was the same basis upon which the amalgamated order was made. The court heard that there were 399 owners affected by these proposals and there would be a period of two months in which objectors to share conversion could make representations to the court. It was argued:

This action is normally taken following upon [sic] an amalgamation scheme as a measure of title improvement. In this case the ownership would be reduced considerably and many of the owners would receive a cash contribution for their shares in the land. If left in the land, it is very likely that they will not receive any remuneration for the greater part of their lifetime.⁵⁹

The court accepted the application and directed draft orders to be displayed at post offices throughout Northland and in Auckland. According to minutes dated 23 March 1967, no objections to the purchase of uneconomic interests were received by the trustee either in writing or by direct representation but it was held by the department that the period of two months had been an adequate time to protest the share acquisition.⁶⁰

Further application for the trustee to acquire uneconomic shares was made to the court on 18 June 1969. Presumably, this application was for those uneconomic shares created since 1966, underlying Kawharu's observation that share conversion could only be a temporary measure given the constant creation of uneconomic shares upon the death of shareholders.⁶¹

⁵⁸ Refer 42 Whangarei 246

⁵⁹ Refer Whangarei 42 MB 246-7, 1 December 1966

⁶⁰ Refer 43 Whangarei MB 8-9

⁶¹ Refer Whangarei 45 MB 107-8, 18 June 1969. Note that an order was made on 4 February 1970 authorising the Maori Trustee to acquire the shares held by a trustee on behalf of minors, pursuant to sections 151(1) and 34(10) Maori Affairs Act 1953

Mr William Cooper of Te Puni Kokiri Whangarei has prepared a report on the Crown's purchasing of uneconomic shares at Pipiwai. This record clearly shows that compulsorily acquired shares and live buying shares were obtained both before amalgamation in 1965 and after. The report details from whom shares were acquired, from which block the shares came and the amount of shares obtained. Reconciliation of owner and Crown shareholding then follows.⁶²

10 Objectors to Amalgamation and Development

With the court having approved amalgamation of the Pipiwai blocks, Maori Affairs submitted a formal development proposal to the Board of Maori Affairs on 18 February 1966. Having been approved, the scheme was then gazetted on 23 June 1966.⁶³

The development submission stated that to date, consent had been obtained from owners with shares totalling 15,000 out of a total of 35,100 shares. The consenting shares were the owners of major portions of the separate blocks before amalgamation. The report says that there were only three known objectors to the scheme, minor shareholders, who had apparently been objecting to the development of the locality for some time.⁶⁴

According to information from the Maori Land Court minutes of 1965 and from Te Puni Kokiri files, objections to the scheme came primarily from the Te Rehu Hoterene whanau.⁶⁵ Moetahi Te Rehu Hoterene (Shortland), Ataitai Te Rehu Hoterene (Armstrong) and Ngarongoa Te Rehu Hoterene (Ihaia) were vocal in their opposition to the scheme. As a family, they were major shareholders in Kaikou X as well as one of their number owning several blocks of solely owned land.

Kaikou X was regarded as good farmland and therefore seen as a key central block in the proposed development of Pipiwai. Prior to amalgamation, this block was informally partitioned by Hoterene family consent. Aside from the Hoterene whanau, one other of the major shareholders of Kaikou X wanted inclusion in the scheme as

⁶² Refer to appendix 8 to view report

⁶³ Refer to appendix 9 for copy of gazette notice

⁶⁴ K Laurence, Development Submission to Board of Maori Affairs, 18 February 1966, Maori Affairs file HO 61/51 p2

⁶⁵ Refer Christina Lyndon 1983, Maori Affairs file DO 18/28

well as other minor shareholders.⁶⁶

Others who objected to the amalgamation of their blocks were Uru Peepe, Tuhi Peita and Mrs Ani Tohu.

At the court hearing of 26 November 1965, those recorded as objectors included the Te Rehu Hoterene whanau, the Peepe whanau, Hemi Herewini and Te Matauranga Rotohiko (Shortland).

According to a report written by Te Puni Kokiri on this matter, Uru Peepe signed an agreement to amalgamate but later said that she had not understood the document. It is alleged that Ngarongoa Ihaia also signed a document of agreement. At a meeting of owners of Te Horo in November 1966, she states that she was at the court sitting for amalgamating the Pipiwai blocks in 1965 when she inadvertently signed an agreement for development to go ahead. Her husband's objection to the inclusion of their shares are noted in one of the first meetings held on 7 July 1960 and at the 1966 meeting.⁶⁷

The claimant's father, Mr Moetahi Te Rehu Hoterene was well known as an objector to the scheme. His disputes with Maori Affairs field officers, particularly regarding amalgamation of his shares, are well documented. However, there appears an inconsistency in the record with regard to a document he signed on 11 July 1966. Mr Hoterene held a charging order against the shares of other owners of Kaikou X for the fencing of boundaries between his land and an adjoining block. In order for amalgamation of Kaikou X to proceed with this charging order still in place, it was necessary to obtain the consent of Moetahi Te Rehu Hoterene to the amalgamation. This document is his consent to the amalgamation of Kaikou X with other titles in the scheme.⁶⁸

It is questionable whether Mr Hoterene understood the significance of the document signed on the 11 July 1966 in light of his otherwise consistent objections to the development scheme.

Minutes of a meeting of owners and Maori Affairs officers held at Pipiwai on 4 August 1966 underline this point. The meeting was called by Mrs Ataitai Te Rehu Hoterene (Armstrong) for the objecting owners to voice their concern at the development scheme proceeding further. The minutes state :

⁶⁶ ibid

⁶⁷ ibid. Lyndon states that researching Maori Affairs files on Te Horo, she was unable to locate any written agreement by Ngarongoa Ihaia and Ataitai Te Rehu Hoterene

⁶⁸ See appendix 10 for copy of this document

Mr M Shortland requested that he be left alone with his land and his interests. He considered that the Department was even taking away the land and his birthplace. He thought it would not be long before the Department asked him to leave the district. He then asked the Head of the Department whether his house and land would be taken away from him. His speech was mainly that of general grievance.⁶⁹

Moetahi Hoterene never accepted loss of control over his family's land and refused Maori Affairs entry onto those areas he considered to belong to him.⁷⁰ Consequently development did not really proceed apace on Moe's land until after his death in 1976, circumstances which were seen to be unfair by some in the valley.⁷¹

11 Partitioning

Despite ongoing complaints from those owners who had objected to the amalgamation of interests and the resulting development scheme, it was very difficult for any individual or family in Te Horo to partition out their interests from the block.

Pursuant to section 330(5) of the Maori Affairs Act 1953, any proposed partition would first require the consent of the Board of Maori Affairs, or its delegated authority the Taitokerau Maori Land Advisory Committee.

At the hearing to amalgamate owner's interests in 1965, the court rejected the

⁶⁹ Minutes of a meeting held at the Pipiwai Hall, Pipiwai on 4 August 1966. Maori Affairs file DO 18/28/1

⁷⁰ Several folios in the Maori Affairs files on Te Horo discuss the "problem" of what to do with Moe Hoterene's land. There are also a number of file notes pertaining to complaints made by the Te Rehu Hoterene family in respect of Maori Affairs administration of the land as well as representations by the family to the Minister of Maori Affairs

⁷¹ See, for example, the minutes of the meeting for the Te Horo scheme annual accounts 1973/4. An extract:

JOHN DAVIS said that he disagreed and wanted to know why Moe was more important than the other owners. If we were letting Moe's land out of the scheme activities John Davis wanted to know why he cannot get his land out...

CHARLIE TIPENE said that if we let Moe get away with the present situation everyone else would want to do the same thing. The land is in the scheme and it should be used by the scheme.

objections of the Hoterene/Armstrong family and would not permit their land to be excluded from amalgamation. Further, Judge Gillanders-Scott referring to existing owners' houses stated that it would be inexpedient in both the public and private interest to partition out these houses as house sites. Instead, "it [was] within the province of the Board of Maori Affairs to grant limited licences to the homesteaders upon satisfactory terms".

Since the date of amalgamation, the Board of Maori Affairs was more disposed towards requests to partition out small areas for house sites and since the scheme inception has consented to five partitions for house sites, two including small horticultural projects, and an area for an urupa. It was considered that larger partitions would compromise the scheme and cause division within the community. Maori Affairs records indicate the scheme management was concerned to grant anyone partitioning of all their interests lest it be seen as a "dangerous precedent" leading to a "landslide" of partition requests.⁷²

Another disincentive to partition was the cost of repaying a proportion of the scheme debt (before it was written off in 1984) as well as financing a farming operation and boundary fencing costs. Apart from convincing the board that a partition would have no injurious economic consequences for the development scheme, it was also necessary to obtain local body approval for the partition.

On the 15 November 1980, the then Minister of Maori Affairs visited Pipiwai and undertook discussions with owners in Te Horo scheme on several issues including the possibility of owners partitioning out their interests in the block.

The Minister and the department indicated that they would not generally support partitioning of interests. However, it was considered that partitioning could be contemplated where land had been included in the scheme against the express wishes of the owners and was in sole ownership or owned by one family. Further, it was considered that a proposed partition should not threaten the viability of the scheme.

It was suggested that the only land which could possibly satisfy these conditions was that previously owned by the Armstrong family, who had already sought permission for partition from the board.⁷³

As the majority of the pre-amalgamation titles were multiply owned this is considered to be the main obstacle to any owners who wish to partition out their shares. The consents of the other former owners would not be easily obtained. The owners as a whole have indicated they would agree to house

⁷² T Spring, Field Officer, 1 July 1981. Maori Affairs file DO 18/28/12

⁷³ Mrs Ataitai Armstrong, sister of Moetahi Te Rehu Hoterene, is a major shareholder in Te Horo. Prior to amalgamation she had shares in nine blocks, two of them solely owned

sites only being partitioned out.

The blocks that the Armstrongs own, if partitioned out, would not have any undue effect on the viability of the scheme but the danger in any partition would be the pressure from other owners for similar partitions.⁷⁴

Under pressure from dissatisfied shareholders, a special owners' meeting was held on 9 June 1990 at which it was agreed that the trust would begin to accept applications to partition out of Te Horo and would also accept applications for licenses to occupy from 1 January 1991. However, partitioning out of the block has been suspended by the Maori Land Court until the issue of uneconomic shares had been resolved.⁷⁵

12 Complaint to the Ombudsman

In late 1978 the Ombudsman's office was approached by Mr D Malloy who was acting for members of the Te Horo Development Scheme Committee, putatively representing owners interests in the development.

Mr Malloy levelled various complaints of maladministration of the development at Te Horo against the Department of Maori Affairs and requested the Ombudsman conduct an inquiry into the scheme.

Specific allegations made by Mr Malloy included failure by the department to consult with, and have proper regard to, the wishes of owners and the development committee. He also questioned the demolition of several family houses which had occurred as land was developed, failure to fulfil assurances that families would be resettled within five years, confusion as to whether certain blocks were or were not included in the scheme as well as several other minor issues.

Mr Kim Workman, investigator with the Ombudsman's office, was sent to Whangarei on 15 June 1979 - 18 June 1979 in order to discuss the complaints with the committee, other owners and to examine district records on the Te Horo scheme.

⁷⁴ T Parore, District Officer, 31 July 1981, Maori Affairs file DO 18/28/12. Presumably, Parore was commenting on the blocks solely owned by Mrs Armstrong and not on her total shareholding. Field Officer T W Spring commented in November 1979 that Mrs Armstrong's shares could not be partitioned out without seriously affecting the viability of the scheme balance

⁷⁵ Any increase in an individuals shareholding as a result of returned uneconomic shares would affect the area of land they were able to partition out of the block. Refer below to discussion on revesting uneconomic shares

The purpose of the visit was to ascertain whether Mr Workman would instigate a formal inquiry into the complaints made by the development committee, within the jurisdictional limitations imposed by the Ombudsman Act 1975.

The function of the Ombudsman is to conduct independent investigations into complaints arising from decisions, acts and omissions by central and local government authorities, including Maori Affairs.

However, in a letter to Mr Malloy dated 28 August 1979, Mr Workman declined the request for a formal investigation, stating that he did not have the power to comment on certain of the allegations of the owners' development committee. In particular he could not comment on decisions or recommendations of the Maori Land Court or any magistrate. Thus, complaints relating to the exchange or partitioning of land or the demolition of houses subject to a court order having already been the subject of court proceedings, were not able to be investigated.

Secondly, Mr Workman pointed out the discretionary powers he was able to exercise under section 17(2) of the Ombudsman Act 1975. This allowed him to decide whether to conduct an investigation which relates to a decision or act of which the complainant has had knowledge for more than twelve months. Because the majority of issues raised by the Te Horo complainants occurred more than ten years prior to the complaint, Workman decided he could not conduct a satisfactory inquiry which would yield useful results.

While, then, the scope of the informal report Workman sent to Malloy was somewhat limited because of the narrow focus of his inquiries, it does contain several interesting comments regarding the relationship between Maori Affairs and the Te Horo land owners. In particular, Mr Workman's reply focuses on the lack of communication between all parties in the development project.

While Workman considered Maori Affairs had made a genuine effort to explain what was involved in land development schemes to the owners concerned, he accepted... "that it may have been a difficult concept for owners to grasp or accept, particularly in light of their own cultural values and attitudes in respect of land and land ownership".⁷⁶

Considering allegations that Maori Affairs failed to consult owners concerning a host of incidents raised by the owners', the investigator came to the conclusion that departmental officers had always been prepared to meet and discuss with the owners' representatives any problems relating to the management of the Te Horo development scheme. He pointed out that owners' representatives had recently been increased from two to three on the departmental development committee and it was

⁷⁶ K Workman to D Malloy, 28 August 1979, Maori Affairs file MA 61/51 p 4. Refer to this document attached as appendix 11

their job to protect owners' interests, to lay complaints to the department on behalf of owners and to participate in the management of the scheme.

Instead, Workman considered that communication problems lay between *the owners and their representatives* on the development committee.

The investigation noted that there had been a failure on behalf of the development committee members to meet regularly with departmental officers and that subsequently there had been a complaint made by eleven owners to the district officer concerning the lack of coordination and communication on behalf of owners' representatives:

In short over the past five years in particular the department has made considerable efforts to maintain communication with the owners' representatives on the committee but there has not been the same willingness to co-operate on the part of those representatives...The departmental files include very little correspondence from the development committee and show that it has generally failed to raise matters of concern with the department, other than at Annual General Meetings. I am satisfied that the department has dealt with any problems that have been raised in a proper and industrious manner.⁷⁷

It was also pointed out by Mr Workman that the development committee did not appear to represent all or even most of the owners of Te Horo.

Addressing other complaints raised by Mr Malloy, the investigator said that they had been the subject of correspondence for some years and had been "fully ventilated". He suggested that owners contact the department to clarify any concerns that remained with regard to grievances raised by Mr Malloy.

In conclusion, Mr Workman stated there was no justification for the ombudsman to intervene and undertake a formal investigation into the administration of Te Horo. Instead he urged :

...the [owners' development] Committee to take a continuing and active interest in the day to day management and to work with the department [of Maori Affairs] in developing the Scheme to its full potential.⁷⁸

13 Financial Management of the Te Horo Development Scheme and Orewai Te Horo Trust

⁷⁷ ibid p 7

⁷⁸ ibid p 7

Development at Te Horo commenced in a period when Maori Affairs acknowledged Maori land development had become increasingly difficult. In the Maori Affairs annual report on development in 1962, it was noted that while prices for primary produce had dropped, there had been no decrease in the cost of development or in land values. As a consequence, Maori Affairs conceded that development stations would be farmed for longer periods to reduce development debt to a level where settlement could be feasible. It was seen to be desirable to slow down the rate of settlement..."until the present uncertain state of world markets for our primary produce is resolved".⁷⁹

Development has, on the department's own admission, been expensive at Te Horo and the anticipated potential of the block has not been realised.

Financial results have been poor since the start of development and if the accounts are adjusted to make allowances for extraordinary circumstances it can be said that the block has not made a profit in its farming history.⁸⁰

It seems that because the Pipiwai lands were in an advanced state of reversion as well as being isolated and infertile, costs of development far exceeded the department's original costing and estimates.

According to development reports Te Horo has never been fully productive. Several development officers have suggested a factor involved was the unavailability of finance when it was needed:

Development became a piece meal operation rather than being completed in the time envisaged. As a consequence, the revenue producing capability of each block was severely curtailed, and the recovery of costs from farming profits became impossible. Interest charges took any surplus.⁸¹

In addition, the department has pinpointed the following factors as contributing to the poor performance of the station:

- generally poor soil types except those around Kaikou river
- variable climactic factors
- average to below average stock performance

⁷⁹ *Report of the Board of Maori Affairs, Secretary, Department of Maori Affairs and the Maori Trustee for the year ended 31 March 1962, Appendices to the Journals of the House of Representatives 1962, G9 p 9*

⁸⁰ Maori Affairs file DO 18/28/17

⁸¹ *ibid*

Waitangi Tribunal Research Series: Te Horo Development Scheme

- brucellosis problems in cattle
- difficulty in employing top class managers⁸²

Maori Affairs admitted that the economic performance of the block was not going to improve upon hand back to the section 438 trust even though at hand back, the development debt of \$705 000 was written off and the board approved a \$50 000 loan annually for seasonal finance... "this block will always be struggling to break even on a full maintenance budget... I do not see the future of this block as an economic unit anything but marginal".⁸³

Mr Hoterene has alleged that the Te Horo Te Orewai Trust has mismanaged the station and caused him loss of income since taking over in 1988. The writer considers the evaluation of the trust's performance to be a technical issue which should be judged by professionally trained agricultural managers and that it is not within the scope of this preliminary report to comment confidently on this issue.

However, it is suggested that attention be directed to the comments of Maori Affairs development staff who were sceptical that the block was capable of producing revenue for its beneficial owners *before* control was handed over to the trust. This seems to indicate that the trust inherited major financial and administrative problems for which it may not be fully responsible.

The trustees of Te Horo were presented with an independent audit report on 24 October 1991 by a firm of accountants in Whangarei.⁸⁴

The report was strongly critical of the management of the trust. As a result of the audit report the then chairman of Te Horo trust was dismissed and replaced by Mr Charlie Tipene.

A major concern outlined in the report was the absence of previous annual audits which were required to be undertaken annually in accordance with the terms of the Te Horo trust order, clause 13.1 therein. This action was therefore in breach of the trust order which, the report noted, left the trustees open to charges of negligence by the shareholders in the scheme.

Assessing the overall operation of Te Horo development the audit concludes that the previous financial year had been "nothing short of disastrous" with the cattle and sheep farming, as well as fringe ventures such as a dairy farm, forestry and

⁸² footnote

⁸³ CC Fox, 2 February 1988, Maori Affairs file HO 61/51/1;DO 18/28

⁸⁴ See copy of audit report prepared by Sumpter and Baughen, chartered accountants, dated 24 October 1991, attached as appendix 12

horticulture, being unsuccessful :

Although at balance date the Trust had liabilities in excess of \$150 000 it's liquid assets, those that can easily be turned into cash, were in excess of \$650 000. Thereby it had to be viewed that the Trust was able to trade into the future. Should the Trust endure another loss year like that immediately passed our opinion on this matter may well change, to an opinion that this Trust is no longer a viable venture for the future.⁸⁵

All in all, the audit indicated that the trustees were not able to meet their obligations set out in the trust order which commits them to operate to the best advantage of the beneficial owners.

However, it needs to be kept in mind that Mr Hoterene's claim is made against the Crown, not the trustees of Te Horo station. The question which needs to be addressed is the degree of Crown responsibility for the trust's financial and administrative problems since assuming control of Te Horo. There appears to be no requirement on the Crown's part to ensure that the scheme was handed over to trustees who had the necessary experience and managerial skills.⁸⁶

Stokes quotes the Royal Commission of Inquiry into the Maori Courts (1980) which commented:

The successful establishment of incorporations and trusts has shown that, contrary to a view widely held in the 1960s, multiple ownership is not necessarily a bar to the economic use of land. Success, however, will come only with the will to cooperate, access to technical advice and to capital for development, *together with managerial skills of a high order in the trustees and boards of management.*⁸⁷

In light of owners' ongoing complaints that Maori Affairs held the initiative at Te Horo and that they were not adequately consulted or included in the scheme management, it is perhaps inevitable to some degree that the owners would lack the experience and training to effectively manage the station.

⁸⁵ ibid p4

⁸⁶ In fairness, it should be kept in mind that the Iwi Transition Agency was under some pressure from owners to return the land to a trust

⁸⁷ Italics my emphasis. *Report of the Royal Commission into the Maori Courts*, 1980, p 27 quoted in E Stokes, *Rural Resettlement on Maori Land: The Role of Section 438 Trusts* Paper presented to the New Zealand Geography Conference, Wellington, August 1981 p 1

14 Time of Development

A recurring grievance of many Maori owners in development schemes is the length of time of the development before owners are able to resume control of their land.

This issue has been persistently raised by owners at Te Horo. The station was under part XXIV jurisdiction for twenty two years before owners assumed control by a section 438 trust.

Examination of Maori Affairs folios indicate that initially there was only 600 acres of land offered for development. At this stage, the department predicted resettlement would proceed within five years. Apparently, as negotiations with owners proceeded with the result that further land was mooted for development, owners were advised at the meeting of 20 October 1965 that resettlement would occur after ten or twelve years of departmental control.⁸⁸

Nonetheless, at subsequent meetings owners were still being advised that resettlement would occur in a five year period. On the 4 August 1966 district officer K Laurence said that there would be five farms ready for settlement in five years. He stated that the balance of Te Horo would be run as a station to recoup costs of the farm developments. At a meeting of owners at Pipiwai on 29 November 1968 Laurence counselled owners that if they wished to resettle within five years they would need to ensure that they had experienced farmers ready... "and he confirmed again that his promise to have these farms available at that stage still stood".

The minutes of the meeting of the Te Horo scheme annual accounts in 1974 show that district officer T B Henry admitted that a promise had in fact been made to settle within five years at the commencement of the scheme. Explaining the delay, he said that it was apparent development would take a long time in order to reduce debt levels on the block to the point that owners could take over. He added that if owners were considering resettlement they would have to convince the board that a farm in such circumstances would be economic.

15 Sale and Revesting of Crown Shares in Development Scheme to Remaining Owners

Prior to July 1983, Crown shares were either held by the Maori Trustee (conversion fund) or the Maori Land Development Fund (MLDF). From the first of July 1983,

⁸⁸ Maori Affairs file HO 61/51/1 part 5

all Maori Trustee shares were transferred to the MLDF.

On the 9 August 1984 the Board of Maori Affairs approved the disposal of all remaining Crown shares in Maori land development schemes.⁸⁹ Those cases where the Crown owned less than 70% of the shares were to have valuations of the shares as at 30 June 1984. An interest remission to equate to an interest free loan for 20 years was allowed and the shares were to be sold to the *existing* owners, with the price funded from the scheme's development accounts. Note that the shares were to be transferred to individual shareholders not the trust or trustees.

According to a Te Puni Kokiri document on Crown shares, approximately 29 schemes proceeded in terms of the Board of Maori Affairs' decision of 1984, and by 1991 all but three schemes had their share transfer finalised without any undue problems. Oromahoe, Ngatikahu and Te Horo 2B2B2B however wanted to have their shares transferred to a "putea" or common trust but at that time there was not the legislation to effect this.⁹⁰ These three cases all had less than 70% Crown ownership of shares.

Currently the Crown holds 12255.787 shares in Te Horo in its name of a total of 29256.987 shares. Of the Crown shares, 4113.820 are compulsorily acquired shares and 8141.967 are live buying. This equated with a 42% interest in Te Horo.

The owners of Te Horo 2B2B2B paid \$144 232 in 1985 to purchase Crown shareholding in their scheme and this was added to their development debt, which has since been written off. The share purchase was conducted in accordance to with BMA approval of 9 August 1984. The shares, however, were retained in the Crown name awaiting legislation on "putea" trusts. This legislation had been at committee stage for some considerable time when it was concluded that it would be best for the share transfer to proceed instead of the Crown continuing to hold the shares in it's name.

On the 13 May 1991 in the course of an application for partition under section 173 of the Maori Affairs Act 1953, the court, His Honour Judge Spencer, raised the issue of uneconomical shares. He was of the opinion that the shares ought to be returned in accordance with the provisions of the Maori Affairs Amendment Act 1987 which would result in the compulsorily acquired shares returned to original owners or their descendants at no cost and the balance to existing owners. Accordingly, Judge Spencer issued an interlocutory injunction pursuant to section 30(1)(f) of the Maori Affairs Act 1953 "restraining the Crown from distributing or

⁸⁹ The board had the power under section 370(2) of the Maori Affairs Act 1953 to dispose of the shares held by the MLDF

⁹⁰ Memo from R J Chappell to Head Office Development Committee, 19 August 1991, Maori Affairs file HO 60/1/26

otherwise dealing or disposing of any shares it may hold in the Te Horo 2B2B2B" and suggested that meetings of owners be held to discuss this new proposal.

The provisions relevant to the share revesting are found in the new part XIII of the Maori Affairs Act, substituted by the 1987 Maori Affairs Amendment Act. These provisions distinguish between compulsorily acquired shares and other shares purchased by the Crown. Section 151 concerns compulsorily acquired shares and provides that they be returned to the people originally entitled to them, regardless of value. Sections 153 and 154 concern other shares and distinguish between shares valued at less than \$1000, which were to be handed back free of charge, and those worth more than that sum which were to be charged to the owners via a loan from the Maori Trustee.

The Iwi Transition Agency made an application to the court on 2 July 1991 pursuant to the provisions of section 64(1) of the Maori Affairs Restructuring Act 1989 to vest the Crown shares in Te Horo in the owners of the block as at 30 June 1984 in order to effect the BMA decision of 30 June 1984.

Section 64(1) of the Maori Affairs Restructuring Act states that

On application by the General Manager, the Court may make a vesting order vesting any land or interest in land acquired pursuant to section 63 [Acquisition of land by General Manager for owners of scheme] of this Act, in the persons on whose behalf it was acquired, subject to any lease, licence, mortgage, charge, or other encumbrance affecting it

An application was again made pursuant to section 64(1) of the Maori Affairs Restructuring Act 1989 on the 6 November 1992 before Judge Spencer.⁹¹ At this hearing, Te Puni Kokiri sought to have the injunction lifted and were successful in that application.

However Judge Spencer declined to immediately deal with the transfer of crown shares, being dissatisfied with certain aspects of the Te Horo trust's proposal to deal with the transfer of shares. The court held the view that owners dispossessed by conversion should have their shares returned to them.

At owners' meetings on 25 April 1992 and 10 October 1992 it was decided to dispose of Crown shares by returning compulsorily acquired shares to their *former* owners and by allowing those who sold their shares to purchase them at a price which was not then determined. Note that this differed from previous resolutions whereby the shares were to be returned to the *current* owners of Te Horo.

⁹¹ Due to a sentencing being dealt with in the district court, counsel for Te Horo 2B2B2B was not able to be present at the hearing

Specifically, it was suggested by owners that a period of five years be allowed for people with grievances concerning uneconomic shares to register with the trustees and for those from whom the Crown purchased shares to buy back those shares.

This was considered by the court to be too long a period to resolve the issue and Judge Shepherd suggested a period of 1 year to establish and register all share grievances and then a further 6 months for the trustees to attempt to solve these problems. The shares, meantime, could be vested in the trustees of Te Horo. The matter was adjourned until the next sitting of the court at Whangarei in March 1993.

At this hearing it was decided that the application to revest the shares be varied to a section 30(1)(a) Maori Affairs Act 1953 application which would allow the Court to determine the ownership of the shares concerned. It was also decided that the compulsorily acquired shares would be held by the trustees of Te Horo until 1 November 1993 to enable beneficiaries to advise the Court whether they wish the shares to be returned in the name of the original owner or in the name of subsequent successors. The application was then adjourned for one year.

16 Te Rau Hoterene's Application to Terminate Te Horo Te Orewai Trust over Family Interests

On the 12 September 1987 Te Rau Hoterene made an application pursuant to section 438 of the Maori Affairs Act 1953 in order to create a Hoterene whanau trust to assist his family in their attempts to partition out their shares in Te Horo 2B2B2B.

At the hearing to consider this application, held at Whangarei on 3 November 1987, Te Rau Hoterene argued that the Te Horo trustees were not representative of his whanau's interests, and he wished those interests to be separately identified and administered by a family trust. The Court pointed out that Te Horo was already vested in a section 438 trust, suggesting that the applicant meet with trustees and owners to explain the present management of the block. The application was adjourned sine die.

Te Rau Hoterene's application was brought before the court again on 3 March 1993 at the same hearing to consider the revesting of uneconomic shares. The application has changed however, to petition the court to terminate the Te Horo trust over those interests held by his family. The court adjourned Mr Hoterene's application for 1 year until the application by the Ministry of Maori Development, concerning uneconomic shares, had been finalised.

17 Issues for Tribunal Consideration

This report was generated by a specific complaint laid by Mr Te Rau Hoterene regarding the compulsory amalgamation, development and vesting of his family's land into Te Horo development scheme and Te Orewai Te Horo Trust. While these conclusions will address some of the particular concerns raised by Mr Hoterene as they apply to Te Horo, I feel that attention should be directed to some of the general questions which have arisen in this discussion on development schemes. While this report has only touched upon the historical context surrounding the birth of Maori land development schemes, it is nonetheless possible to draw several observations on their nature.⁹²

Land development could be seen essentially as an attempt by the Crown to arrest those processes which had occurred as a result of the collision of Maori customary and European tenurial systems, namely the process of partition and fragmentation, multiple ownership and resulting lack of development finance. Lack of money for development could be described as one of the major forces driving Maori land alienation in this period. However, the development procedure as outlined in the body of this report appears to be fundamentally flawed as McHugh comments:

Development schemes develop the land and do not confront the problem of fragmentation until the re-vesting stage. By then the owners have lost much of their identity with the land and a continuing dependence upon the regime which developed the land has been bred. Spiritual alienation from the land is just as bad as legal alienation. This is what development schemes, as currently run, encourage. Their basis is entirely an economic one and the disruption they leave in their wake leads the writer to suggest they be discarded.

Development schemes put the proverbial cart before the horse. The owners should be constituted as a trust or incorporation and then develop the land rather than the inverse process imposed by Part XXIV of the Maori Affairs Act 1953.⁹³

This claim would appear to raise several complex issues revolving around the relative rights and obligations of the parties involved in the Te Horo development scheme. In particular, what is the relationship between an individual Maori land owner (or individual family) and their hapu when decisions need to be made

⁹² The writer feels that the following conclusions are tentative as this report has not researched or analyzed how this scheme worked for *all* owners of Te Horo; it has largely focused on complaints made about the scheme. Obviously, not all owners objected to having their land amalgamated and developed and further research would be likely to reveal how the scheme affected those beneficiaries and what the nature of their consent was.

⁹³ McHugh 1980 p 31

regarding land utilisation?

In this instance, Moetahi Te Rehu Hoterene had his land interests amalgamated with those of other Pipiwai owners, and developed, without his consent. At first glance, we could say that a Maori farmer was denied the right to manage his land according to his own preferences which, it may be inferred, was a violation of article two of the Treaty of Waitangi.

However, we also need to consider whether individual owners have hapu/iwi commitments in this context. We look at development schemes from a perspective which has seen increasing emphasis in recent years on the corporate or tribal management of Maori land. Stokes has shown the increase in the number of section 438 trust orders made by the Maori Land Court over the last couple of decades, and Te Ture Whenua Maori Act 1993 created five new types of trust, underlining the trend toward corporate management of Maori land.⁹⁴ Seen from this position, we should at least acknowledge that schemes such as Te Horo were an attempt to use land in a communal way to the benefit of the hapu as a group, in accordance with Maori custom.

However, this report has sought to emphasise the significance of the political context in which Te Horo and other schemes were established and brings us to a discussion of the relationship between the Crown and Maori owners.⁹⁵ While the kaupapa of the development schemes may have been to benefit the Maori land owners concerned, we cannot ignore the implications of the considerable pressures for

⁹⁴ E Stokes, *Rural Resettlement on Maori Land: The Role of Section 438 Trusts*, paper presented to the New Zealand Geography Conference, Wellington, August 1981 p5

⁹⁵ In the case of *Re Tikitere Development Scheme (1954)* NZLR 738 the Supreme Court held that under development legislation a fiduciary relationship was set up whereby in effect the Crown through the Board of Maori Affairs became the trustee for the Maori owners of the land which was subject to the legislation. The judgement in that case was overruled by the Court of Appeal in the case of *Stewart V. the Attorney General (1958)* NZLR 538 and the judgement of the members of the Court of Appeal indicate that, while the position of the Board is that of an agent, there is no fiduciary relationship between the Board and the owners of the land so far as the land is concerned. But in s.328(2) of the Maori Affairs Act 1953, there is a declaration that all the property other than land or interests in land for the time being held by the Board in respect of any particular area should be held by it in trust for the several owners of that area in proportion to their several interests therein. It follows from this that the Board, its delegates and others serving it must exercise the same care in their administration of Part XXIV lands as any trustee is obliged to exercise in the management of trust property for his beneficiaries.

Maori Affairs file MA 53/3 part 6 Maori Land Development and Settlement 1963-67, folio 425

development applied by central and local government agencies outlined in this report. These pressures were indicative of the national policy concerns of the time to have all land in production. The development of Maori land was seen to be in the national interest, a point admitted by development staff:

Historically this development should never have taken place, especially if policies now practised were in operation then. The major shareholders strongly protested against the amalgamation but these protests were totally disregarded by the Maori Land Court, who acted in the best interests of the country, rather than the interests of the people...⁹⁶

To the writer, the emphasis placed by the Crown on reversion of Maori land, (while acknowledging that Maori land was only one fifth of land needing development in the north), the comments by the Court at the amalgamation hearing in 1965 which seem to suggest that being a "lifestyle" farmer was unacceptable, the influence of local bodies eager to recover rating levies, collectively appear coercive in nature and rooted in old Pakeha anxieties that Maori, without Pakeha intervention, might become a burden on the state.⁹⁷

Supporting this view is the forced conversion undertaken by the Maori Trustee prior to amalgamation date which could be interpreted as the Crown attempting to enforce the scheme rather than making a genuine attempt to consult the owners concerning their preferences. Seen in these circumstances, what might appear to be an effort to hold and manage land communally may be seen as denying more treaty rights than it upheld. It should perhaps be noted that the policy makers of the era were not necessarily acting in bad faith; indeed, Hunn an enthusiastic proponent of conversion, amalgamation and development, was able to confidently state in his report that none of these methods... "would seem to infringe the letter or spirit of the Treaty of Waitangi".⁹⁸

However, it seems necessary to consider whether part XXIV development provisions which allow for compulsory gazetting of Maori land and suspension of owners' rights, and the fact that there are not analogous provisions for general land, breaches the third article of the Treaty of Waitangi which guarantees to Maori all the rights and privileges of British subjects.

Papers on part XXIV development in Taitokerau region in the late 1980s emphasise

⁹⁶ C C Fox *ibid*

⁹⁷ G Butterworth, *A Rural Maori Renaissance? Maori Society and Politics 1920-1951*, *Journal of the Polynesian Society*, vol 81 no 2, June 1972, p168

⁹⁸ J K Hunn, *Report on the Department of Maori Affairs*, 24 August 1960, (Government Printer, Wellington, 1961) paragraph 163, p59

that the schemes have been partly successful in developing Maori land but have not been beneficial to Maori owners:

Beneficially, the Crown has been the only winner. It has had the use and occupation of the land for the past 22 years, it has had its interest on the money outlaid, it has made full use of the gross income of this block each year. The Maori owners have had nothing. They cannot even get house sites without costly hassles. When these facts are combined with the history, it is no wonder that the owners have been anti-establishment, bitter, and now demanding total debt write-off and return of their land.⁹⁹

Summarising owners' complaints concerning part XXIV development, which are pertinent to Te Horo, development staff stated:

- lack of consultation and little contribution from owners in directing development, yet owners of the scheme were expected to repay development debts
- the policy involved amalgamation of titles which, owners said, destroyed their turangawaewae and consequently their mana
- loss of occupation and land forced many Maori to leave their districts and contributed to welfare dependence in urban areas
- because people had to move when development commenced, they became more susceptible to selling their shares in order to finance relocation
- where settlement had taken place, owners argued that development was more advantageous to the settler
- owners complained that the government could not make many schemes viable with their debt loadings, and that it was unreasonable to expect inexperienced owners to do better¹⁰⁰

The current issue of immediate concern to owners of Te Horo is the re-vesting of uneconomic shares in the beneficiaries. It is anticipated by owners that once this issue is settled, and relative shareholding of the land is determined, then Te Orewai Te Horo Trust will begin to accept requests from owners to partition out their

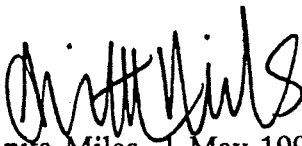
⁹⁹ Chris Fox, District Office Comments Te Horo Development Scheme, Maori Affairs file DO 18/28

¹⁰⁰ RPK Paraone, *Taitokerau District-Part XXIV*, 19 February 1988, Maori Affairs file DO 18/28/17 Te Horo Title

Waitangi Tribunal Research Series: Te Horo Development Scheme

shares, and application can then be made to the Court to effect this.¹⁰¹ By these means, then, Te Rau Hoterene may regain control of his family land.

It is recommended that this preliminary report be released to concerned parties for comment.


Anita Miles, 1 May 1993.

¹⁰¹ It is important to note that this process may not occur without difficulties. Mr Hemi Rua Rapata, counsel for Te Orewai Te Horo Trust, has pointed out that valuation issues impinge on partitioning out one's interests from the block. The difference in valuation between land amalgamated in 1965 and land post development in 1993 may mean that owners may not have the exact same *area* returned to them if they proceed to partition. This may not be acceptable to some owners

Appendices

1. Terms of the Commission
2. Statement of Claim from Mr Te Rau Moetahi Hoterene, registered as Wai 149, received by the Waitangi Tribunal on 21 May 1990
3. (a) Location map showing Pipiwai in relation to Whangarei city
(b) Cadastral map showing Te Horo development scheme
4. Partition Order for Te Horo 2B2B2B, reference 66 WH 129-130, and schedule of owners with Te Rau Hoterene listed at number 114
5. Section 438 Trust Order establishing Te Orewai Te Horo Trust, dated 8 September 1986
6. New Zealand Gazette no 98, 9 June 1988 page 2331
7. Notes taken from meeting of owners, Tau Henare marae, Pipiwai, on 20 October 1966. Moetahi Hoterene is listed as against amalgamation
8. Board of Maori Affairs approval to purchase uneconomic interests in Te Horo (and other schemes), dated 6 October 1966
9. W P Cooper, Disposal of Crown Shares in Te Horo 2B2B2B, 1 December 1992
10. New Zealand Gazette no 38, 23 June 1966, page 1001
11. Consent to Amalgamation of Kaikou X, signed by Moetahi Te Rehu Hoterene, dated 11 July 1966
12. Letter from K Workman to D Malloy, 28 August 1979
13. Audit Report of Te Orewai Te Horo Trust, prepared by Sumpter and Baughen, chartered accountants, 24 October 1991

WAITANGI TRIBUNAL

Wai 149

CONCERNING

the Treaty of
Waitangi Act 1975

AND

a claim relating
to Te Horo Block

DIRECTIONS TO COMMISSION RESEARCH

Pursuant to clause 5A(1) of the Second Schedule of the Treaty of Waitangi Act 1975, the tribunal commissions Anita Miles of the tribunal staff to investigate and provide an exploratory report on this claim.

The exploratory report will be filed with the Registrar of the tribunal on or before 1 August 1993.


The report will be exploratory in nature. Its purpose is to brief the tribunal and assist the parties to further identify issues. It will outline the complaints of the claimants, and briefly set out the historical background to those complaints and any other relevant matters.

When the report is received the tribunal will direct its distribution to claimants and the Crown.

Anita Miles will be available for cross-examination on the report if required and to respond by memoranda to any questions as directed by the tribunal.

A copy of this direction is to be circulated to the claimants and the Crown.

DATED at Wellington this *5th* day of June 1993


Chief Judge BTJ Durie
Chairperson
WAITANGI TRIBUNAL

Please note : this direction was issued retrospectively. This report represents approximately three months research work.

IN THE MATTER

of the TREATY OF
WAITANGI ACT 1975

A N D

A CLAIM BY

TE RAU MOETAHI
HOTERENE, Beneficiary
of Pipiwai

KI TE ROOPU WHAKAMANA O TE TIRITI O WAITANGI

STATEMENT OF CLAIM

1. I, TE RAU MOETAHI HOTERENE of Pipiwai, Beneficiary bring this claim on behalf of myself as a descendant of Moetahi Te Rehu Hoterene. I am of Ngaphui descent; of the Ngati Hine hapu.
2. I claim under the Treaty of Waitangi Act 1975 on behalf of myself that I have been prejudicially affected:

 - 2.1 By the policy of the Crown with regards to Maori Land Development Schemes, administered by the Maori Affairs Department.
 - 2.2 The acts done in furtherance of these Maori Land Development Schemes by the officers/agents of the Department of Maori Affairs.
 - 2.3 The legislative policies of the Crown in particular:

 - Maori Affairs Act 1953.
 - Maori Purposes Acts 1926-81
 - Maori Trust Boards Act 1955
 - Maori Affairs Restructuring Act 1989
 - 2.4 The regulations of the Crown concerning the legislation listed above.

~~AND FURTHER I CLAIM THAT~~ these policies/acts of the
n as listed in clause 2 of this claim are contrary and
consistent with the two texts and principles of the Treaty
of Waitangi 1840.

4. IN particular I say as follows:

4.1 That my father, Mr Te Rehu Hoterene owned a number of interests in Maori Land, these being:-

- (a) Motatau 2 Section 52B
- (b) Motatau 2 Section 64B
- (c) Motatau 2 Section 16B2
- (d) Te Horo 2B2B
- (e) Maungapahatu North
- (f) Kaikou 3 Lot 11A
- (g) Kaikou A4E
- (h) Kaikou D3
- (i) Kaikou X

4.2 That my immediate whanau and I were born and raised on the land, Kaikou 3 Lot 11A.

4.3 That on the 26th of November 1965 the Maori Land Court heard a proposal by the Maori Affairs Department to amalgamate several titles of Maori land to create the Te Horo block.

4.4 That my father Moetahi Te Rehu Hoterene and others, objected to the proposed amalgamation at the Maori Land Court hearing.

4.5 That on the 17th day of December 1965 the Maori Land Court ruled that the objections put forward by Moetai Te Rehu Hoterene and others were not of sufficient merit to call for exclusion of their land from the application.

4.6 That an order was made pursuant to Section 435 of the Maori Affairs Act 1953 cancelling several titles and substituting one title being Te Horo.

- 4.7 That as a result my whanau and I had to leave our ancestral home that we had occupied for generations and were forced to reside elsewhere.
- 4.8 The Department of Maori Affairs used the land under a Maori Land Development Scheme.
- 4.9 That in 1986 a trust order was made in favour of the Te Orewai Te Horo Trust under which the Te Horo land was transferred to the trust by the Department of Maori Affairs and was not returned to its rightful owners.
- 4.10 That the Te Orewai Te Horo Trust ran a farm on the land.
- 4.11 That the trust mis-managed the land and failed to consult the original owners.
- 4.12 That I have suffered loss of income from the date the trust began to administer the land.
- 4.13 That the Department of Maori Affairs was wrong in transferring the land to the trust and that it acted inconsistently with the principles of the Treaty of Waitangi.
- 4.14 That I have made numerous claims to the Maori Land Court requesting various orders concerning the said land. The Maori Land Court has refused to grant any relief sought contrary to my express wishes and other original owners and inconsistently with the principles of the Treaty of Waitangi.
- 4.15 That as a result of the loss of land and the subsequent loss of income from the said land my whanau and I have a reduced land base to sustain ourselves and our tamariki/mokopuna who are or who may wish to return to the whanau papakainga to live and raise their families on the land.

5. I claim the following relief:

5.1 The return of the land in the Te Horo block to the rightful owners and correction of the "Schedule of Owners" lists in the Maori Land Court to evidence the same.

5.2 Compensation for the loss suffered by me and my whanau in the:

- deprivation of our ancestral land.
- resulting loss of income, use and occupation of our ancestral land.
- and such other relief as the Tribunal considers just and appropriate.

6. I wish the Tribunal to commission a researcher to report on my claim; to assist in the research and collation/presentation of my claim before the Tribunal.

7. I wish the Tribunal to appoint a lawyer to assist me in the formulation of my claim.

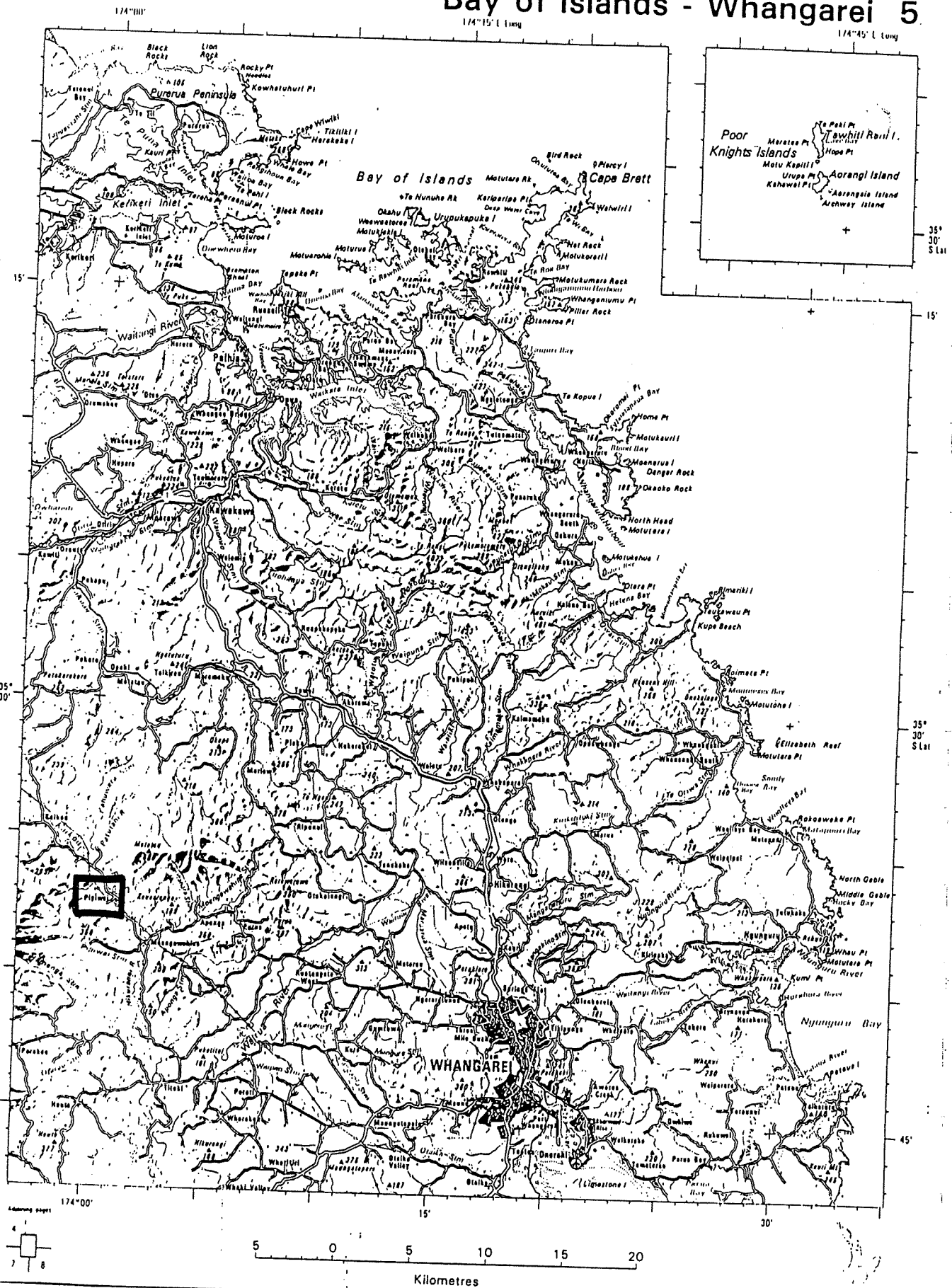
7.1 I have applied to the North Auckland District Legal Aid Committee for legal aid.

7.2 If this application is unsuccessful in having Roger Murray Bell of Webb Ross Johnson, P.O. Box 143, Whangarei, appointed as my lawyer, I seek leave for the Tribunal to reconsider my application for legal assistance in light of this possible development.

8. I wish the claim to be heard at Tau Henare Marae, Pipiwai.

8.1 I wish the claim to be heard before a mediator appointed by the Tribunal.

Bay of Islands - Whangarei 5



PARTITION ORDER

The Maori Affairs Act 1953
Section 173
Section 34(10)

IN THE MAORI LAND COURT
OF NEW ZEALAND
TOKERAU DISTRICT

TE HORO 2B2B2B Block

IN THE MATTER of the partition of the
land known as TE HORO
2B2B2 heretofore held
under partition order
dated 19 October 1984

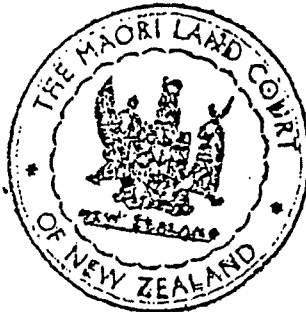
At a sitting of the Court held at Whangarei on 12 October 1987 before
Hoeroa Bailey Marumaru, Esquire, Judge

IT IS, as part of the said partition, HEREBY ORDERED AND DECLARED that
the several persons whose names appear in the first column of the
Schedule endorsed hereon or annexed hereto, and therein numbered 1 to 168
both inclusive, are the owners, in the relative shares or proportions set
out in the second column of the said Schedule, of that part of the said
land containing 300.1277 ha TE HORO 2B2B2B named by the Court and which
part is particularly delineated on the plan attached hereto.

ANDREW DUNCAN SPENCER

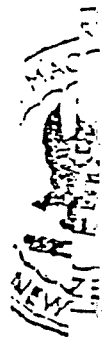
AS WITNESS the hand of ~~the~~ Judge and the seal of the Court.

Andrew Spencer
Judge



THE SCHEDULE WITHIN REFERRED TO

FIRST COLUMN		SECOND COLUMN	
No	Name	Sex & (if Minor) Age	Relative Interest
1	Alex James Tairua	ma	46.816
2	Te Ani (Annie) Leonard	fa	51.818
3	Anne Stephens	fa	8.973
4	Te Aroha Niha	fa	8.973
5	Te Aroha Prime	f	10.802
6	Arena Tumu Peihopa	ma	4.483
7	Ataiti te Rehu Hoterene or Ataiti Armstrong	f	940.516
8	Te Awhi Peter Niha	ma	8.973
9	Boydie Tipene and Nessie Tipene as joint tenants		6.553
10	Chappy Matini	m	22.200
11	Charlie Tipene	m	.837
12	Christobel Joyce Niha	fa	8.973
13	Dan Matini	m	22.201
14	Dayne Andrew Niha	m1990	4.963
15	The Crown		12 255,787
16	Dorothy Doreen Collins	fa	46.816
17	Edith Armstrong	f	129 973
18	Edward Charles Hart		3.913
19	Edward Tumu Peihopa	ma	15.130
20	Edward Waa	m	16.246
21	Erana Spraggon	fa	8.973
22	Eruera Hone Niha	m	24.798
23	Freeman Stanley Paul and Hine Paul as tenants in common		10.000
24	G H Woods	md	52.042
25	Hazel Hauraki	f	84.634
26	Hauraki Waa Waa Hoterene	ma	117.383
27	Heemi Herewini	m	472.862
28	Heeni Janie Black	f	3.622
29	Te Heirei (or Heiheii) Maru Peepe	f	37.908
30	Herepe Rago	fa	4.483
31	Heruika Leslie Peihopa	m	200.000
32	Te Kura Morehu Waa (Mrs Martin)	fa	222.484
33	Hemi Maru Peepe	m	37.906
34	Henare Motatau Tipene or Henry Paraika Tipene	m	55.000
35	Heni Hira Hone Niha	m	24.798
36	Hira Shortland	fa	4.483
37	Hira Patu Tairua	f	31.208
38	Hiria (Celia) Matini	f	22.200
39	Hone Reihana	m	1.956
40	Hone Ngakuru Matini	m	22.200



Handwritten signature or initials.

			8.973
41	Hori Hemara Niha	ma	21.293
42	Huihui Poi Brown	f	163.656
43	Huirua Tungaroa	m	472.867
44	Huri Hone Tipene	f	132.216
45	Huria Remana Ratahi	f	82.929
46	Jack Mervyn Barnes	m	10.801
47	Jack William Prime	m	
48	Ihaka Wati - NZ Guardian Trust Co as Administrator		300.000
		m	51.819
49	Isaac Leonard	m	43.205
50	James William Epere	m	84.635
51	James Hauraki		
52	Jean Ivy Saunders or Jean Ivy Ruiroa Saunders	f	51.986
		m	129.973
53	Joe Shortland	m	1 222.796
54	John Taite Davis	m	19.648
55	John Edward Reihana	f	84.634
56	Joyce Hauraki	f	22.201
57	Keita (Kuina) Matini (Mrs Scrivener)	f	1.957
58	Kirikota Eru Matini (Mrs Neho)	fd	4.484
59	Kiripe Hopa	fa	34.448
60	Kiwi Paraha	m	191.068
61	Te Koha Hera Hoterene	m	1.956
62	Lena Eru Matini (Mrs Rawiri)	fa	75.703
63	Luchelle Whelan	f	8.973
64	Maihi John Niha	ma	21.661
65	Mamaeroa Paraha	f	129.973
66	Manaia Povey	f	34.448
67	Mangu (Ruku) Pani Kopa	f	10.801
68	Te Manihiri Prime	m	16.247
69	Manu Waa	m	373.229
70	Manuera Wiri Paora	m	845.982
71	Maraea Pumipi or Wharerau	f	
72	Margaret Paratene - subject to an interest for life or until remarriage to Molly Tomuri	f	247.460
		fa	8.973
73	Marion Cassidy	m	129.973
74	Marsh Shortland	f	129.973
75	Maryanne Ruka	f	783.504
76	Mate Ape or Hoterene		
77	Mate Ape for life or widowhood - remainder to: Ani Paki Herewini (Mrs Aperahama) Keita Morehu Herewini Aperahama (Mrs Tawhiao) Witeria Herewini Aperahama	f	372.905
		fa	
		fa	
		ma	16.247
78	Mate Waa	m	4.483
79	Matire Panui	fa	8.974
80	Matiu Noa Niha	ma	17.329
81	Mau Karawhe Waa	m	24.798
82	May White	f	50.302
83	Mere Ropere Hemi	fd	38.863
84	Mere Peeni	f	84.635
85	Mereana Clarke	f	70.833
86	Mereana Tamihana	f	290.000
87	Michael Ape Raniera or Daniels	m	21.293
88	Moses Peihopa	m	

Ar

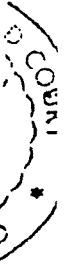
89	Motatau Wati Shortland		15.024
90	Ngahuaia Waa Waa Hoterene	f	73.896
91	Ngamere Mahia	f	54.746
92	Ngamiringa Ashby	fa	77.807
93	Ngapuhi Brown	fa	3.912
94	Ngaroroa Te Rehu Hoterene	f	776.000
95	Ngaronoa Takimoana	fa	3.912
96	Ngaronoa William Frederick Niha	ma	8.973
97	Ngaruna Peihopa	fa	15.130
98	Nicholas Matini	m	22.200
99	Niha Waa Waa Hoterene	ma	77.809
100	Pakitia Huirua Morehu Waa	m	82.057
101	Pane Cooper	f	55.816
102	Paraiwete Kiu Niha Hauraki		6.507
103	Parani Waa	f	16.246
104	Patu Tairua	m	62.416
105	Pereri Davies	m	49.600
106	Peter Matini	m	22.201
107	Pita Pani Kopa	m	34.451
108	Pita Hone Raniera	ma	398.221
109	Poi Ropere Hemi	m	50.302
110	Poi (Bosie) William Peihopa	m	48.813
111	Porena Waa	m	546.452
112	Prime Cooper	m	.500
113	Puti Waa	f	16.247
114	Rau Shortland	m	129.973
115	Raukura (Margaret) Leonard	f	51.818
116	Rebecca Shortland	f	129.973
117	Te Reokore Hilda Steward	fa	8.973
118	Richard John Niha	m	19.836
119	Rihari Mahia	m	54.750
120	Robert Leonard Tahana	ma	51.818
121	Ropere Pairama or Palmer	f	130.201
122	Ropere Tipene Jnr II	m	50.302
123	Royal Waa Jnr	m	16.246
124	Ruruhira Morehu Waa (Mrs Sagar)	f	222.485
125	Samuel Armstrong	m	547.767
126	Sharon Sydina Leonard	fa	51.818
127	Sebastian Matthew Tohu	ma	262.040
128	Sonny Manuel Niha	m	8.973
129	Sophie Waa	f1987	16.246
132	Tairua Wiremu	f	62.416
131	Taiwhanga Lou Niha	ma	8.973
132	Tame Mahia	m	54.750
133	Tamehana Hone Niha	m	24.798
134	Tangiwai Waa	f	16.246
135	Tom Solomon Palmer	m	177.000
136	Te Wehenga Betty Niha	f	8.973
137	Thomas Peihopa	ma	4.484
138	Tia Kake	m	21.293
139	Tika Matini	m	22.201
140	Tiri Coombe	f	129.973
141	Teonga Herewini	f	51.672
142	Tungarua Tungarua aa III	m	47.072
143	Una Hone Raniera (Mrs Tohu)	fa	398.221

137 - 138 - 139 - 140 - 141 - 142 - 143

A.

144	Waerata Prime	f	10.802
145	Wahanui Wallace Reihana	m	19.648
146	Waimaria (Bunny) Matini	f	22.201
147	Waiomio Manuera (Peeni)	m	297.273
148	Wally Wakarua Leonard	m	51.819
149	Walter Ratahi	m	70.833
150	Walter Shortland	m	129.973
151	Warahi Reihana	ma	1.956
152	Wati Hauraki	m	84.635
153	Wati Peihopa	m	21.293
154	Te Wehenga Maru Peepe	f	37.908
155	Weti Hone Niha	m	24.798
156	Whanaupani Peihopa	ma	4.483
157	Whatiia Rountree	f	69.702
158	Whereri Tairua	md	62.416
159	Wikitoria Mahia	f	54.750
160	Wikitoria (Vicky) Matini	f	22.200
161	Wini Manu Waa	fd	56.010
162	William Manahi Owen or William Owen	m	50.996
163	William Tohu	ma	262.039
164	Winiata Shortland	m	100.802
165	Wiremu Matini	m	22.200
166	Wiremu Hone Niha	m	24.799
167	Wiremu Pokekiore Hone Niha	ma	24.798
168	Wiremu Tirarau Renata	m	310.910


TOTAL SHARES 29 148.766



TRUST ORDER

The Maori Affairs Act 1953, Section 438(5)

IN THE MAORI LAND COURT
OF NEW ZEALAND
TOKERAU DISTRICT

IN THE MATTER of the land known as
TE HORO 2B2B2

AT A SITTING of the Court held at Whangarei on the 8 day of September 1986 before Hoeroa Bailey Marumaru, Esquire, Judge

WHEREAS the Court at Whangarei on 19 March and 8 September 1986 vested the land described in the schedule in:

John Taite Davis
Motatau Wati Shortland
Wati Hauraki
Heruika Peihopa
Tame Palmer

Hare Hirihana Tipene
Samuel Armstrong
Christina Gaewynne Lyndon
Manuel Paul

(called "the Trustees") NOW THEREFORE the Court HEREBY ORDERS AND DECLARES that the Trustees shall hold the said land upon the terms and trusts following :

TITLE

This trust shall be known as the TE OREWAI TE HORO TRUST and shall apply to the land set out in the schedule.

OBJECTS

Subject to any express restrictions set out in this order, the objects of the trust shall be to provide for the use and management of the land to the best advantage of the beneficial owners or the better habitation or use by beneficial owners and their successors, to make provision for any special needs of the owners as a family group or groups, and to represent the beneficial owners on all matters relating to the land and to the use and enjoyment of the facilities associated therewith.

POWERS

The Trustees are empowered:

GENERAL

In furtherance of the objects of the trust and except as hereinafter may be limited to do all or any of the things which

4 AFFORESTATION

- (1) To establish, develop and engage in forestry operations of all kinds including felling, logging, harvesting, treating logs and timber, manufacturing timber products and buying and selling timber products of every kind and description.
- (2) To engage and join in any forestry projects either solely or by way of joint venture, as the Trustees deem necessary or advisable.

5 LEASING SUBDIVISION ETC

To subdivide, partition, exchange, lease or sublease or grant any other form of tenancy or licence (including the power to vary or accept, surrender and grant new leases, subleases tenancies or licences in substitution thereof) BUT NOT SELL the land or any part thereof.

6 POWER OF BORROWING

To borrow money for any or all of the purposes of the trust either by way of loan, mortgage, lien, charge or otherwise howsoever, and secured if necessary over all or any of the real or personal assets of the trust.

7 BANK ACCOUNT

To open and operate bank accounts and trading accounts with any bank, mercantile firm or institution and to delegate authority to operate upon any such account or accounts.

8 USE OF TRUST PROPERTY BY BENEFICIAL OWNERS

- (1) To make regulations for the use of any part of the trust property and chattels by the beneficial owners, and to fix the cost or charges for such use.
- (2) To promote and to make provision for the social and cultural and spiritual and economic advancement of beneficial owners and their families including the promotion and maintenance of the health, education and general well-being where possible.

9 APPOINTMENT OF TRUSTEES

To administer and manage the business of the Trust. Nine (9) Trustees shall be appointed and will carry out their duties in accordance with the objects and purposes of the Trust and in particular to enjoy the general powers hereinafter specified. The initial Trustees shall be:

- | | |
|--------------------|-------------------------|
| - John Taite Davis | - Motatau Shortland |
| - Samuel Armstrong | - Wati Hauraki |
| - Heruika Peihopa | - Manuel Paul |
| - Tame Palmer | - Charlie Wireni Tipene |
| - Christina Lyndon | |

10 GENERAL POWERS OF TRUSTEES

To exercise their duties, the Trustees shall manage and administer the Trust Property and each and every part thereof to the best advantage so that the best possible benefits for the beneficial owners may be obtained consistent with the objects of the Trust hereinbefore stated.

11 APPLICATION OF REVENUE

The Trustees may apply all revenue derived by them:

- (1) In payment of the costs of creation of the Trust.
- (2) In payment of the reasonable expenses of any Trustee or Trustees engaged in his or their professional capacity, "reasonable" in this context meaning such charge as is usual and proper for the work undertaken.
- (3) In payment of interest on monies borrowed or in repayment of any monies borrowed on behalf of the Trust.
- (4) In making such investments or loans as the Trustees see fit.
- (5) In furtherance of the powers and objects of the trust or in defraying the costs of administration of the trust.
- (6) In building up cash reserves for contingencies or for capital expenditure for expansion or improving any property of the trust or for the purpose of any business carried on by the Trustees.
- (7) In setting aside for retention in an accumulated profit account such portion of the profit as the Trustees consider it prudent not to distribute to the beneficial owners.
- (8) In payment of the residue from time to time to the beneficial owners of the trust in proportion to their respective shares.
- (9) In the purchase of the shares of any beneficial owner wishing to see the same and any shares so purchased shall be deemed to have been acquired on behalf of all the remaining beneficial owners of the respective interests. The first option to repurchase such shares would be given to the immediate family of the beneficial owner.
- (10) In making loan finance available to the beneficiaries particularly for the purchase of immediate family shares or for other forms of repurchase arrangements agreed on by the Trustees.

12 OFFICE

The Trustees shall appoint such place as they decide upon to be the official office of the Trust and shall if required notify the Registrar within seven days of any change in the place or postal address of such office.

13 BOOKS OF ACCOUNT

- (1) The Trustees shall arrange to keep proper records and books of account and shall cause them to be audited annually. Such records and accounts shall contain the assets liabilities and income and expenditure of the Trust for each financial year ending on 30 June. The books and records of the Trust shall be kept in the custody of the Secretary of the Trust or such other person as the Trustees may appoint.
- (2) Copies of the latest audited accounts, if necessary, be filed with the Court each year. The accounts shall be audited by a duly qualified Chartered Accountant and Auditor and a duly audited statement of accounts with the profit and loss account and balance sheet shall in each year be submitted to the general meeting of the owners. The Trustees shall give to the auditor one calendar month's notice in writing informing him of the date and time and place of such meeting. At such meeting the auditor shall be entitled to address the meeting and answer questions in respect of any matter or matters relating to the accounts of the Trust.
- (3) A copy of the audited accounts for the preceding year shall be available for inspection by the beneficial owners free of charge at the office of the Trust.

Copies of the audited balance sheet and profit and loss account may be purchased by beneficial owners.

14 APPOINTMENT OF CHAIRMAN AND SECRETARY

The Trustees shall appoint one of their number to be Chairman each year and may likewise appoint a Secretary each year who need not be a Trustee.

15 MEETINGS

- (1) The Trustees shall meet together as often as they think fit and except as otherwise stipulated herein shall regulate their own procedure. Minutes of their meetings shall be kept. Any resolution signed by a majority of the Trustees for the time being and attached to the Trustees' Minute Book shall be valid and effectual as a resolution duly passed at a meeting of the Trustees, provided that no such majority resolution shall be attached to the Minute Book until all Trustees have been notified.
- (2) Whenever the Trustees are unable to reach unanimity the dissenting vote or votes shall be recorded in the Trustees' Minute Book, however, any Trustee who has had his dissenting vote recorded shall be required to abide by the majority decision and to do all acts incumbent on him as if the vote had been unanimous.
- (3) (a) A dissenting Trustee may if he formally requests such audience, address a meeting comprised of not less than 60% of the beneficial owners.

- (b) A dissenting Trustee may apply to the Court for review of the major resolution and shall indicate such intention forthwith to the Trustees whereupon all action in respect of the disputed resolution shall be suspended pending the outcome of the application.
- (4) The application for review shall be filed in the office of the Court within seven days inclusive of the date of the resolution. The Court may hear the matter *exparte* and upon determination a copy of the Court's decision shall be forwarded to the Secretary of the trust. The Trustees shall be obliged to comply with the decision.
- 16 The Trust shall have a common seal which shall be kept in the custody of the Secretary or of the Chairman if no Secretary has been appointed. Contracts, deeds or other documents requiring to be executed by the Trustees pursuant to any resolution shall be deemed to be properly executed if the seal of the trust is affixed to any such contract, deed or other document in the presence of any two Trustees. The seal shall not affixed to any document capable of registration under the Land Transfer Act 1952. Such document shall require to be executed by all Trustees.
- 17 PAYMENT OF EXPENSES
- Each Trustee shall be entitled to receive a reasonable travelling allowance, or a refund of the expenses actually and reasonably incurred in attending or returning from meetings of the Trustees or for any other purposes associated with the conduct of trust business and shall in addition be entitled to receive a minimum fee of \$50.00 (fifty dollars) for each meeting of the Trustees attended or such other amount as may from time to time be decided by the Trustees.
- 18 VACANCY OF A TRUSTEE
- (1) The office of a Trustee hereunder shall become vacant if the Trustee dies or resigns or retires in accordance with the provisions of Clause 19 herein, or becomes bankrupt, or becomes a person of unsound mind within the meaning of the Mental Health Act 1969 or after appointment is convicted of an offence for which the maximum penalty is imprisonment for a term of six months or longer or if he is removed by the Court
- (2) In any such case pending the appointment of a new Trustee the surviving or continuing Trustees shall be entitled to exercise all the powers of the Trustees.
- 19 COMPULSORY RETIREMENT
- (1) Three years after their date of appointment or within two months after such date two members of the original Trustees (to be determined by agreement or lot) shall retire.

- (2) The same procedure shall apply for the fourth year when an equal number shall retire and finally the fifth year when the balance of the original Trustees shall retire.
- (3) The Secretary, or such other person as authorised shall notify the Court of such retirement.
- (4) The Court may reappoint those Trustees who have retired in accordance with these provisions PROVIDED HOWEVER they are willing to continue in office. If they are not so willing or if the Court declines to exercise this power of reappointment the Court shall then direct the Trustees to convene a meeting of owners forthwith for the purpose of seeking further nominations or for any other purpose the Court shall order.
- (5) Every Trustee elected a Trustee (not being an original Trustee) and every retired Trustee re-elected as Trustee pursuant to sub-clause (4) of this clause shall be appointed for a five year term and shall then retire.

20 VOTING FOR ELECTION OF TRUSTEES

- (1) A general meeting of the beneficial owners shall be convened at least once bi-annually by the Trustees and the Trustees shall specify the meeting as such in the notices calling it. The Trustees shall fix a time and a place therefore and convene a general meeting accordingly. The latest audited accounts shall be submitted at such general meeting. Notice of any general meeting shall be given by advertisement inserted three weeks and again one week before the meeting in the New Zealand Herald, the Northern Advocate and the Northern News.
- (2) The Trustees may be guided but not bound by any views expressed at such a meeting whether embodied in a formal resolution or not PROVIDED HOWEVER that whenever they decide to decline to act upon a resolution passed by beneficial owners representing not less than fifty per cent of the total shareholding, whether in person or by proxy, they shall apply to the Court for directions, excluding Crown and Maori Trustees share, and repurchased shares.

21 THE BUSINESS OF THE ANNUAL GENERAL MEETING SHALL BE

- (1) To receive and consider the Annual Report.
- (2) To receive and consider the balance sheet, profit and loss account and the auditor's report.
- (3) To elect persons to fill vacancies amongst the Trustees.
- (4) To appoint an auditor or auditors.
- (5) To consider and if thought fit dispose of such matters as may properly be brought before the meeting.

Proper procedure being that those with business to be considered at such a meeting, notify the Secretary of their intention by writing and of the subject they wish to have for inclusion on the agenda of the meeting.

22 QUORUM FOR GENERAL MEETING

The quorum for such meeting shall be one tenth of the total number of shareholders or such number or numbers being not less than three holding amongst them not less than 10% of the total shareholding.

23 BENEFICIAL OWNERS MAY REQUISITION MEETING

- (1) The Trustees shall convene a meeting of beneficial owners upon requisition in writing signed by not less than twenty beneficial owners or by shareholders holding between them not less than twenty percent of the total shares in the Trust.
- (2) Any such requisition shall state the purpose for which the meeting is required and shall be served upon the Chairman or the Secretary of the Trustees who shall lay the same before the Trustees.
- (3) Such meeting shall be convened within two months from the date of receipt of such requisition by the Chairman or the Secretary.
- (4) Notwithstanding the aforementioned the Trustees may apply to the Court for directions where they consider compliance with such requisition.

24 COURT MAY DIRECT A MEETING

The Court upon application made to it by a beneficial owner may direct the Trustees to convene a meeting of beneficial owners to be held upon such terms and conditions as it thinks fit, for the purpose of considering any specific matter.

25 ARBITRATION

In the event of any dispute arising howsoever from the construction of any clause herein or affecting any dispute arising whatsoever from any matter contained in the trust then such matter shall be referred for arbitration to the Court.

SCHEDULE

<u>Name of land</u>	<u>Area</u>
Te Horo 2B2B2	3106.4257 ha

AND WHEREAS the Court doth hereby further order that this order shall issue forthwith pursuant to Section 34(10) of the Maori Affairs Act 1953.

AS WITNESS the hand of the Judge and the seal of the Court.

Judge

Notice

1. This notice may be cited as Maori Land Development Notice Whangarei 1988, No. 6.
2. The land described in the Schedule hereto is hereby declared to be subject to Part XXIV of the Maori Affairs Act 1953.

Schedule**North Auckland Land District**

All those pieces of land described as follows:

Area ha	Being
77.8919	Lot 2, D.P. 6479, being part Pouto Topu A, situated in Block XIII, Hukatere Survey District. Partition order dated 25 May 1977 and being part provisional register, Volume 14B, folio 1067.
96.0989	Lots 1, 2, and 3, D.P. 56447, being parts Pouto Topu A, situated in Block IX, Hukatere Survey District. Partition order dated 25 May 1977 and being part provisional register, Volume 14B, folio 1067.
103.3972	Lot 1, D.P. 56443, being part Pouto Topu A, situated in Block IX, Hukatere Survey District. Partition order dated 25 May 1977 and being part provisional register, Volume 14B, folio 1067.
95.9118	Lot 1, D.P. 56446, being part Pouto Topu A, situated in Block IX, Hukatere Survey District. Partition order dated 25 May 1977 and being part provisional register, Volume 14B, folio 1067.

Dated at Wellington this 2nd day of June 1988.

For and on behalf of the Board of Maori Affairs.

T. PARORE, Deputy Secretary for Maori Affairs.

(M.A. H.O. 61/12; D.O. 20/9)

In6055

Maori Land Development Notice

Pursuant to section 332 of the Maori Affairs Act 1953, the Board of Maori Affairs hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Whangarei 1988, No. 7.
2. The notice(s) referred to in the First Schedule hereto are hereby revoked by omitting all reference to the land described in the Second Schedule hereto.
3. The land(s) described in the Second Schedule are hereby released from Part XXIV of the Maori Affairs Act 1953.

First Schedule

Date of Notice	Reference	Registration No.
20 January 1976	<i>Gazette</i> , 29 January 1976, No. 10, page 220.	
14 June 1966	<i>Gazette</i> , 23 June 1966, No. 38, page 1001.	

Second Schedule**North Auckland Land District**

All those pieces of land described as follows:

Area ha	Being
37.5320	Kaikou No. 3, Lot 8C, situated in Blocks II and III, Mangakahia Survey District. All certificate of title, Volume 269, folio 238.

Area
ha

Being

20.85901	Kaikou No. 3, Lot 8D, situated in Blocks II and III, Mangakahia Survey District. All certificate of title, Volume 270, folio 200.
84.54136	Kaikou No. 3, Lot 10, situated in Blocks XIV and XV, Motatau Survey District and Blocks II and III, Mangakahia Survey District. All certificate of title, Volume 253, folio 278.
11.6853	Kaikou No. 3, Lot 35, situated in Block II, Mangakahia Survey District. All certificate of title, Volume 269, folio 211.
2920.8628	Te Horo Blocks X, XI, XIV and XV, Motatau Survey District; and Blocks II, III, VI and VII, Mangakahia Survey District.

Dated at Wellington this 2nd day of June 1988.

For and on behalf of the Board of Maori Affairs.

T. PARORE, Deputy Secretary for Maori Affairs.

(M.A. H.O. 61/51; D.O. 18/28, 18/28/23)

In6056

Maori Land Development Notice

Pursuant to section 332 of the Maori Affairs Act 1953, the Board of Maori Affairs hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Wanganui 1988, No. 2.
2. The notice referred to in the First Schedule hereto is hereby revoked.
3. The land described in the Second Schedule hereto is hereby released from Part XXIV of the Maori Affairs Act 1953.

First Schedule

Date of Notice	Reference	Registration No.
19 August 1976	<i>Gazette</i> , 17 February 1977, No. 16, page 349. Maori Land Development Notice Wanganui 1977, No. 5.	H. 127312

Second Schedule**South Auckland Land District**

All that piece of land described as follows:

Area
ha

Being

174.3421	Part Manunui A17, situated in Blocks III and IV, Piopotea Survey District. Part P.R. 272/152.
----------	---

Dated at Wellington this 1st day of June 1988.

For and on behalf of the Board of Maori Affairs.

T. PARORE, Deputy Secretary for Maori Affairs.

(M.A. H.O. 15/5/46; D.O. 6/120)

In6058

Maori Land Development Notice

Pursuant to section 332 of the Maori Affairs Act 1953, the Board of Maori Affairs hereby gives notice as follows:

Notice

1. This notice may be cited as Maori Land Development Notice Hamilton 1988, No. 4.
2. The notice referred to in the First Schedule hereto is hereby amended by omitting all reference to the land described in the Second Schedule hereto.

For

Against

● Kikou AHE (2417.589)

Namatahi Te Manu Waa	703.250
Napi Te Manu Waa	356.192
Moetahi	574.

Moetahi Motarene ✓ 374.

Kaikou X (7410.000)

Hauaki Waa Waa Hotarene	69.656
Mareiro " " Hotarene	69.656
Ropere Paima	1112.000

Kaikou X

Moetahi Motarene	✓	1535.362
Mgarongoa Waa	✓	1397.000
Kangi Hone Kopa	✓	51.964

Kaikou 3 Lot 1382 (2155.000)

Idari Hone Sipere 1077.500

Kaikou A4D (1138.529)

Te Hareai Maru Peepe	✓	253.335
<small>1970</small>		
Hemi Maru Peepe	✓	253.335
<small>1974</small>		
Trustee for Minors Present Uru Peepe		
Wirihana Hone Peepe	✓	155.833

Kaikou 3 Lot 1382

Idemi Harewini ✓ 1077.500

Kaikou 3 Lot 14 (353.000)

Kurukina Pu Neho 215.500

Kaikou 3 Lot 14

Te Matauranga Rotahiko	✓	49.250
or Motarene represented by Mateketeata Rotahiko & brother curing		49.250

● Kaikou No3 Lot 38 (970.000)

Hauaki Waa Hotarene	1.250
Napi Maru Waa	1.250

Mangakowhara B462

Manu Idari Peri Sole Deal

For

Against

Kou 3 lot 37 (1170.000)

in der britelfield 2.593

Omanere 3. (666.466)

Iduriata Hori Kewi 13.888

Kaitou 3 lot 31 (1910.000)

Te Roka Heemi Tairua 60.000

Note To Court:

These persons were not represented by
counsel with the exception perhaps of
Maetahi Moterere, who is represented
by Mr Gill:

BMA approval to purchase uneconomic shares

Purchase of Interests

TOKERAU DISTRICT

1. PROPOSAL :

To obtain consent for the purchase of shares by the Crown on those Schemes being prepared for settlement up to an amount not exceeding £10,000 in any one year subject to finance being available within the District Allocation.

2. SCHEMES :

Te Horo	Pouto
Ngaiotonga	Rangihamama
Omapere	Waiomio
Oruawharo	Pukemiro

N.B. Ngaiotonga, Pouto, Pukemiro - Although early settlement is not planned, approval is also sought for these special cases.

3. SHAREHOLDING BASIS :

<u>Scheme</u>	<u>No. of Shares in Scheme</u>	<u>No. of Shares held by Crown</u>	<u>Estimated Value of shares</u>
Te Horo	30973.262 (543 owners)	1499.020	£1 per share
Ngaiotonga	3152.154 (40 owners)	224.154	£2.8.8 per share
Omapere	14264.000 (144 owners)	101.052	£2.0.0 per share
Oruawharo	3986.000 (42 owners)	Nil	£1.15.5 per share
Pouto	22955.000 (103 owners)	213.104	£1.13.0 per share
Rangihamama	26385.400 (242 owners)	550.493	£1.3.9 per share
Waiomio	3210.000 (11 owners)	Nil	Basis not yet determined
Pukemiro	5362.000 (53 owners)	250.000	Basis not yet determined

4. GENERAL :

- There are numerous absentee and other owners who wish to realize on their shares for purposes such as housing and relocation.
- It is not possible to forecast at any given time what the demand for realization will be, but, we receive requests from time to time.
- The approval sought of up to £10,000 per annum will be apportioned between the above schemes but, will of course be dependent upon the amount of finance available within the District Allocation.
- The Prichard Report highlights the desirability of the Crown buying out uneconomic interests wherever practicable and the burden to the Crown.

9.8

5

2.

- (e) The ownership by the Crown of shares in the schemes where settlement is evident strengthens the Department's position in selecting suitable nominees for settlement.
- (f) Three schemes have been included in this submission as special cases although early settlement is not planned - Ngaiotonga and Pouto have large Crown shareholding, Pukemiro has special circumstances relating to ownership and live buying should continue on these blocks as well.

RECOMMENDATION :

That approval be given for the purchase of shares by the Crown in the Te Horo, Ngaiotonga, Omapere, Oruawharo, Pouto, Rangihamama, Waioimo and Pukemiro Schemes up to an amount of £10,000 per annum subject to the availability of finance in district allocation.

E. S. Thompson
 (E.S. Thompson)
 for District Officer
 22.8.66

Approved for Submission:

B. E. Pouto
Deputy Secretary.
 30/8/66

Board's Decision: APPROVED by the BOARD

Date - 6 OCT 1966

A. D. Grey
 Board Secretary
 Minute Number 11859

DISPOSAL OF CROWN SHARES IN TE HORO 2B2B2B

- 1 Currently the Crown has in its name 12255.787 shares.
- 2 It is noted that at the owners meetings on 25 April 1992 and 10 October 1992 it was decided to dispose of the Crown shares as follows:-
 - (i) All shares taken by compulsory acquisition are to be returned to the original owners or their successors at no cost.
 - (ii) All shares acquired by so called live buying can be purchased by the original sellers or their whanau at a price not yet determined.
- 3 As a result of the owners decisions I have prepared 4 lists of owners identified as follows:-
 - (i) Compulsory acquired shares purchased prior to amalgamation - Appendix I.
 - (ii) Live buying shares purchased prior to amalgamation - Appendix II.
 - (iii) Compulsory acquired shares purchased after amalgamation - Appendix III.
 - (iv) Live buying shares purchased after amalgamation - Appendix IV.
- 4 SHARES ACQUIRED PRIOR TO AMALGAMATION

I have separately identified the shares as set out in "3" above because

 - (i) the shares purchased prior to amalgamation are easily identified,
 - (ii) the Crown shares upon amalgamation were reduced as follows:-

Upon amalgamation all outstanding block charges against the 58 blocks amalgamated to form Te Horo block, being assessed at 105.155 shares were deducted from the Crown shares of 1604.175 (Appendix V Reconciliation of Crown shares refers).
- 5 SHARES ACQUIRED AFTER AMALGAMATION

Upon completion of the Crowns acquisition of shares in Te Horo, it ended up with 13687.458 shares. The Crown shares have now been reduced to 12255.787 as follows:-

 - (i) in 1977 the then Te Horo Development Scheme purchased 4 General Land blocks, known as the Yates blocks, and amalgamated the same with the Te Horo Maori Land title. It was determined by the Department of Maori Affairs that the Crown should not have any interest in these lands and that they should be for the benefit of the Maori Owners solely. Upon application to the Court by the then Department of Maori Affairs the Court on 1 July 1977 amalgamated the 4 blocks with Te Horo and at the same time reduced the Crowns shares by 10% (Appendix VI extract from WH 53/105 and copy of order refers).
 - (ii) the crown shares were further reduced by the sale of 63.660 shares as follows:-

<u>Share</u>	<u>Purchase</u>	
(a) 0.837	C Tipene) purchased their own shares taken under
(b) 0.500	Prime Cooper) compulsory acquisition
(c) 6.507	Kui Hauraki	
(d) 10.858	Pane Cooper	purchased shares of Hoani Henare her grandfather
(e) 44.958	Pane Cooper	

The 44.958 shares purchased by Pane Cooper were from no one in particular. She merely purchased the most shares she could afford at the time. The Maori Trustee up until then ceased selling shares in 1978 and were willing to sell shares to anyone who could afford it.

6 RECONCILIATION OF SHARES

(i) Appendix V illustrates how the Crown came by its current shareholding.

(ii) However for the purposes of providing the list of owners for the revesting of uneconomic and livebuying shares I have ignored two major factors affecting the Crown shares.. I have not made any allowance for the 105.155 shares deducted relative to the block charges or for the 44.958 shares purchased by Pane Cooper. The result is that the total number of shares on the four lists provided total 12396.52 as against the 12255.787 that the Crown actually holds.

(iii) Given that there were 58 blocks amalgamated into Te Horo there has not been the time nor is it practical to breakdown the charges to the original blocks and then adjust the shares.

(iv) Also the 44.958 shares have been sold and it is not within the Crowns nor I think, the Court's power to take these shares back.

(v) All one can hope is that not all the live buying shares are taken up. If in the future it does look likely to happen then the matter needs to be revisited and the shares adjusted down. On what basis will need to be looked into if the need arises.

(vi) The difference in shares between the list provided and the current shareholding is 140.733 (12396.52 - 12255.787). The total of the block charges and Mrs Cooper's shares is 150.113. The difference is 9.382 shares. Despite the writer's efforts he has been unable to reconcile the shares back to the Crown's current shareholding.

(vii) Regrettably the writer's inability to reconcile the shares has contributed to the late distribution of this report.

(viii) The writer will, however, continue to try and reconcile the shares provided of course given the circumstances the shares are able to be reconciled back to the current Crown shareholding.

(xi) It must be stressed however that the shareholdings contained within the attached lists are correct. The only difference from the original shareholding is that all shares have been reduced by 10%.

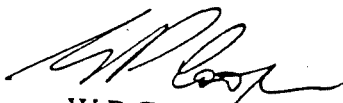
taken up then a further adjustment of shares will have to be looked into.

The Trustees will need to be mindful of this and I think the court records should be noted of this possibility.

(ii) There is no doubt the owners who will come back into Te Horo through the Crown, particularly the uneconomic shareholders will be seriously disadvantaged by erosion of the Crown's shareholding.

(iii) The 10% reduction while obviously reducing the amount of shares effectively means that no new shareholders will have an interest in the Yates Blocks.

(iv) If the Maori Land Court is able to make any recommendations as to how the past reduction of Crown shares can be reversed, I am sure the Crown will be only too willing to assist the Court and the Trustees in affecting such proposals.



W P Cooper
for Regional Manager
Residual Services (Taitokerau)

1 December 1992

2D049

APPENDIX I - COMPULSARY ACQUIRED SHARES PRIOR TO
AMALGAMATION

BLOCK	SHAREHOLDERS NAME	SHARE
Kaikou B8B	Peeta Waa or Peete Waa Hoterene	0.159
	Kupae Hone Kopa	0.014
Kaikou A4D	Te Moro Peepe	91.554
	TOTAL	<u>91.727</u>

**APPENDIX II - LIVE BUYING SHARES PURCHASED PRIOR TO
AMALGAMATION**

BLOCK	SHAREHOLDES NAME	SHARE
Kaikou 3 Lot 9B2	Hone Peeni	38.002
	Hori Peeni	38.002
	Henriata Peeni	38.002
Kaikou 3 Lot 37	Hana Rewiti Peita	8.884
	Kowhiti Kuti	2.221
	Noema Kuti aka Noema Kuti Tipene	2.221
	Haka Kuti	2.221
	Kupu Kuti	2.221
	Iris Kuti	2.220
	Manu Niha Henare	5.923
Kaikou 3 Lot 39	Peeni Ropere Hemi (Tipene)	5.884
Kaikou 4F	Maraina Heke	22.212
	Katene Kina Totara	11.106
	Terehia Kuha	7.407
	Te Ruuma Whakatau	6.478
	Herehere Makoare Panui	6.476
	Katene Panapa	11.106
	Peka Kuha	3.702
	Te Ahu Tia @ Manu	20.406
	Reongaro Teihi Panui	0.694
	Hemi Kuha	3.702
	Renata Tiraru Renata -	11.532
	Te Wehenga Teihi Panui	0.094
	Kepa Whanga	11.106
	Riwhi Tia	20.406
	Wiremu Tirarau Renata	11.530
Kaikou A4D	Eru Totara or Eruera Hori	36.621
	Eru Tamehana Noa	5.232
	Harata Rountree	54.933
	Hare Tamehana Noa	5.231
	Kahutaha Peepe	18.311
	Kereru Tamehana Noa	5.231
	Kiri Tamehana Noa	5.232
	Paihia Rountree	54.933
	Paraire Rountree	54.933
	Pi Hori (Baby) Totara	36.621
	Rounatere Rountree	54.933
	Taupiri Rountree	54.933
	Te Wehenga Tamehana Noa	5.232
	Kaikou A4E	Mataranga Rotohiko Hoterene
Ani Manu Waa		217.100
Matekino Rotohiko Hoterene		114.117
Kaikou 3 Lot 1A3	Taite Wati	56.588
Kaikou 3 Lot 3B	Wiremu Te Hau Muiuru	65.010

ikou 3
t 4C2B

Kepa Whanga	5.672
Maraina Heke	11.345
Katene Kina Totara	5.672
Terehia Kahu	1.891
Te Ruuma Whakatau	3.309
Herehere Makoare Panui	3.309
Katene Panapa	5.672
Riwahi Tia	10.417
Peka Kahu	1.891
Te Aha Tia @ Manu	10.417
Reongaro Teihi Panui	3.354
Heni Kahu	1.891
Maki Whanga	5.672
Pake Kahu	1.891
Renata Tirarau Renata	5.953
Te Wehenga Tehi Panui	0.356
TOTAL	<u>1352.028</u>

 APPENDIX III - COMPULSORILY ACQUIRED SHARES AFTER AMALGAMATION

NAME	SHARE
Akinihi Neri Patarana	.492
Alexander Critchfield	.604
Alfred Llewellyn Falkiner	7.162
Alfred Edward Healey	.770
Amiria Mate	4.289
Anaru Rui te Hoara	1.157
Ani Maku Matene	1.133
Ani Manu Waa	.444
Annie Munn	1.539
Te Ao Keretene	9.192
Apirana Reu te Haara	1.153
Te Arani Keretene	9.192
Arena Tuhi	6.890
Arihi Katete	9.211
Arihia Pokai	3.068
Ariki Taki Hoterene	5.548
Te Aroha Paraha	19.495
Te Atarangi Hemi Peka	4.468
Te Awaroa Hoterene	2.013
Te Awhi te Hoari Neho	11.488
Boydie Tipene	15.394
Brian Pou	.492
Carl Wara	14.235
Dick Nau Inia	18.214
Eddie Ngapera Edmonds	.743
Edward Clifford Falkiner	7.163
Elizabeth Rose Dunn	19.241
Emma Morehu Paraone (Mrs Eddy)	7.890
Emma Paraha	18.092
Erana Taki Hoterene	5.548
Eru Tamihana Noa	9.099
Esther Sheila Falkiner	2.783
Ethel Stella Falkiner	4.384
Frederick William John Lugwig	.514
George Frederick Falkiner	7.162

NAME	SHARE
Haka Ropere Hemi	5.322
Haki Henare	2.880
Haki Ape Kopa	1.342
Haki Pene	.491
Haki Werahiko Wihongi	21.010
Hama Hati	.450
Hami Pera	8.073
Hana Reweti Peita	8.831
Hana Waa	3.002
Hani Niha Henare or Hori Niha Henare	14.014
Te Hape Rui te Haara	1.152
Hare te Heihei Taki Hoterene	5.548
Hare Waa Waa Hoterene	.078
Hare Tamihana Noa	9.099
Hariata or Miko Mate Komene	14.639
Hata Tipene	3.024
Hau Ngarunui Tiki	1.823
Haupai te Ihi Panui	2.301
Hauraki Remana Ratahi	22.474
Hauraki Tarawa	1.582
Heeni Ropere Hemi	5.327
Hemi Rui te Haara	1.152
Hemi Hapurona	4.840
Hemi Kuti	2.048
Hemi Paewhenua	11.455
Hemi te Ihi Panui	2.301
Henare Hoterene	2.013
Henare Toko Paraha	.551
Heni Erueti or Heni Wiki Pita	6.877
Heni Tame Horomona	22.343
Heni Tarawa	1.582
Heni Whiu	7.898
Henry Ngatote le Noel	8.344
Hepi Nau Inia	18.210
Hera Ropere Hemi	5.326
Here Rui te Haara	1.152
Te Here Neho	.225

NAME	SHARE
Hereora Tauī Katete	9.210
Herewini Ngapera Peka	.743
Hikoi Toenga Matiu	.225
Hikurangi Keretene	1.219
Himi Toko Paraha	.551
Himi Mokena Paraika Tipene	.753
Hineamaru Paraone	7.387
Hinetapu Marsh Mahanga	.907
Hinu te Pirihi Whiu	2.250
Te Hira Hiku	2.840
Hirikarena Hemi Peka	4.466
Hirini Hori Henare	8.455
Hoani Toenga Matiu	.229
Hoani Paraika Tipene	.753
Hohaia Piri Whiu	1.121
Hohipere Erueti Parekura	3.439
Hohipere te Heihei Whiu	4.170
Hokimate Kiwi Paraha	3.633
Hone Hohepa Hura	4.910
Hone Pahi	15.094
Hone Morehu Morehu Paraone	.315
Hone Peeni	1.962
Hone Whangarei or Ngahuia	5.924
Hone te Pirihi Whiu	2.250
Hori Honerei Hoterene	1.470
Hori Kingi Huhana	2.261
Hori Rapata Kopa	.094
Hori Peeni	7.721
Hori Kopeka Ngapere Peka	.743
Hori Ngarunui Tiki	1.823
Hori Tipene	3.024
Te Horo Pene Komene	3.633
Huihui or Rahui Ngahi Kaka	.225
Huihuinga Pawehenua	4.105
Huirau Mate	2.678
Huka Atai Hemi Peka	4.466
Hurae Toenga Matiu	.229
Huria Pita Wa Hoterene	11.677

NAME	SHARE
Huriata Huhana	2.261
Huriata Hori Rewi	13.262
Ihapera Tairua	7.293
Iri Pawehenua	11.455
Iro Waimarama Kaka	6.053
Iti Nore Hei	14.527
Ivy Heemi Tairua (Mrs Tipene)	16.856
Jack Mervyn Barnes	19.490
John Segundo Diaz	10.981
Julian Diaz	10.981
Kaihaere Toko Kopa	.330
Kaipara Mate Komene	2.678
Te Kara Kiwi Paraha	3.633
Kararaina Hinemoa Maki	6.223
Karawhira Ngārunui Tiki	1.823
Kawiti Riiwhi Toeke	2.254
Keiti Ropere Hemi	5.324
Ken Nau Inia	18.214
Kerei Hapurona	19.445
Kereru Taimihana Noa	9.099
Keti Tokowha Mate Komene	9.803
Kingi Taurua	1.391
Kirehi Poukoura Peka	.558
Hoana Burich	9.099
Kohekohe Ropere Hemi	5.322
Komene Heemi Tairua	16.856
Te Kooti Tarawa	9.210
Kopa Kuri	14.235
Kopere Tokowha Mate Komene	.729
Korari Nau Inia	18.210
Kuata Rui Te Haara	1.152
Kukupā Harihana	7.151
Kura Poukoura Peka	.554
Lillian Kaipiri Ani Eru Nehua Hoskins	2.100
Lora Marion Diaz	10.981
Louisauna Lily Waa	19.239
Maata Ahuaiti Hone Ruwhiu (Mrs G Lawrence)	20.342
Mae re Pirihi Whiu	1.129
Maera Erueti	6.892

NAME	SHARE
Mahuetanga Kiwi Paraha	3.633
Mai Kopa	1.342
Mairia Paraha	19.494
Makereni Poukoura Peka	.554
Makoare Ape Kopa	1.614
Te Mamae Parata	7.122
Mangakura Hone	18.779
Manu Niha Henare	8.628
Manuhiri Te Akonga	15.094
Manutahi Manu Waa	.203
Marara Ngapera Peka	.743
Maraea Hepi Poti	.491
Maraea Paraika Tipene	.753
Maraea Whatarau	4.714
Mare Herewini Baker	.743
Mare Maraera Marsh Mahanga	.907
Marengi Tarawa	1.582
Margaret Lucy Wong	3.002
Margaret Yelash	9.192
Maria Del Carmen Diaz or Mrs Walmsley	15.718
Martha Hita	14.235
Martin Henry Diaz	10.981
Maryanne Clark	8.526
Mate Rui te Haara	1.152
Maria Tehema Clark	4.737
Mate Toko Kopa	.330
Mate Neho	10.479
Mate Poukoura Peka	.554
Matepaihana Paraone	7.387
Materoa Taki Hoterene	5.548
Matire Matene	1.132
Matire Toenga Matiu	.225
Mavis Ngarunui Tiki	1.823
May Elizabeth Falkiner	1.028
Mei Rapata Kopa	.071
Mere Herewini Baker	.743
Mere Wahia	14.235
Mereana Horihana	7.151

NAME	SHARE
Mereana Raniera Pihere	4.174
Michael Pita Heke	13.977
Mihi Poukoura Peka	.554
Mina Maraea Hemi Peka	4.466
Miria Ropere Hemi	5.324
Miringa Wati	1.012
Moeahu Paraone	7.387
Moengaroa Paraika Tipene	.753
Moengaroa Waa	3.002
Moetaao Neri Patarana	.491
Moewaka Rameka	.729
Mohi Hone	19.435
Mohutu Neri Patarana	.491
Moke Werahiko Wihongi	7.107
Moretiana Ngatohuhu Morehu Paraone	.315
Mori Kiwi Paraha	3.633
Mori Reweti Peita	16.905
Moriki Waa	3.588
Motatau Wati	1.008
Mu Toko Kopa	.330
Naomi Critchfield	.604
Neri Kuti	2.048
Nga Haki-o-Temepara Kupenga Rawhiti	.729
Ngahiraka Rata or Ngahiraka Hori Here	1.787
Ngahiraka Whare (Pene)	18.878
Ngahoari Neho	.225
Ngaire Elizabeth Diaz	10.981
Ngaparani Manu Waa	.690
Ngaraiti Tokiwha Mate Komene (Walters)	1.612
Te Ngaranoa Heemi Tairua	16.856
Ngaro Toko Kopa	.330
Norman Richard Critchfield	.604
Ohorere Herewini Baker	.743
Te Okeroa Heemi Tairua	16.856
Owati Ropere Hemi	5.325
Owen Richard Healey	.772
Paki Hone Kopa	.284
Paki Tipene	3.024
Pamaihana (Harry) Whatarau	4.714

NAME	SHARE
Paora Toko Paraha	.551
Parani Toko Kopa	.330
Paraone Kiwi Paraha	3.633
Parata Mate Komene	9.119
Parekura Paewhenua	7.350
Patea Honerei Hoterene	4.575
Pati Rata or Pati Tiari Paraone	1.787
Patricia Theresa Whitute	14.655
Patu Teni	14.246
Patuki (Joe) Te Kaha Hati	10.254
Peara Reu te Haara	1.148
Pedro Antonia Diaz	10.981
Peeni Henare	2.880
Pehikuru Paora Pehikuru or William Bedggood	1.121
Peka to Nore	1.451
Pene Tauai Mitai	3.075
Pepuere Mavis Parekura	3.435
Pera Hone Kopa	.206
Pera Taratahi	4.527
Peri Herewini Baker	.743
Peti Kooti Tarawa	9.210
Phillip Charles Ludwig	.514
Pii Paora	1.950
Pinono Neri Patarana	.488
Piri Neho	.225
Te Pirihi Whiu	8.344
Piringi Rameka Pena	.725
Piripi Rui te Haara	1.152
Piripi Remana Ratahi	22.474
Pita Hone Morehu Paraone	.315
Pita Rameka	.725
Poi Pakeha Rata	1.787
Pou Tarawa	1.582
Pou Toeke	17.658
Puru Horore	3.945
Puti Toko Paraha	.551
Puti Poukoura Peka	.554

NAME	SHARE
Queenie (Kuini) Hiku Hone or Mrs Hilda Rewi	4.737
Rahera Waha Whiu	2.246
Rangiamio Hare Kay	.491
Raniera Hone Kopa	.284
Ranui Paraha	19.495
Rapata Heremaia Kuri	14.235
Rau Matene	1.132
Te Rehu Hone Kopa	.284
Rere Manu Waa	14.397
Rewatoto or (Totorewa) Waa	3.585
Reweti Toko Kopa	.330
Riiwhi Rui te Haara	1.152
Te Rima Arere	21.488
Ripeka Taratahi	1.451
Ripeka Whiu	14.235
Rira Rapata Kopa	.120
Ririmu Hone Kopa	.284
Te Riwhi Rata	1.787
Robert Kanuta	12.896
Roe Manu Waa	.244
Roimata Rui te Haara	1.152
Te Roka Heemi Tairua	16.856
Rongohira Matene	1.129
Roorā Falkiner	6.139
Ropi Paul (Mrs Paul)	18.210
Ropu Ropere Hemi	5.322
Te Rore Harihana	7.151
Rotohiko Here Hoterene	17.123
Rua Ape Kopa	1.613
Ruhira Nau Inia (Mrs Hunt)	18.210
Rui Hiku	2.840
Ruiha te Pirihi Whiu	2.250
Ruiha Hemi Peka	4.291
Ruku Paraha	19.495
Te Ruma Waa	3.585
Ruru Rui te Haara	1.152
Sonny Hami Tamehana Noa	3.508
Ta Neho	.225
Tahora Neri Patarana	.491

NAME	SHARE
Taite Hemi Kairau	18.878
Taite Ape Kopa	1.613
Taiwhanga Taki Hoterene	5.548
Taki Kiwi Paraha	3.633
Tamara Hineauraki Morehu Paraone	.315
Tamati Huirau Paraone	6.223
Tamati Hemi Peka	4.466
Tame Kopa	.450
Tame Te Rehu Hoterene	.454
Tame Te Pirihi Whiu	1.129
Tamehana Hami Tamehana Noa	2.076
Tamihana Hiku	2.840
Tane Herewini Baker	.743
Tane Horore	3.945
Tane Poukoura Peka	.558
Tangata Kino Toko Paraha	.551
Tangi Whangarei or Ngahuia	5.927
Tangiwai Ngarunui Tiki	1.823
Tani Ngapera Edmonds	.743
Taniora Kūha	12.281
Tari Ape Kopa	1.613
Tata Tipene	3.024
Taura Hapurona	4.840
Taura Matene	1.132
Tepara Tei Paora	2.261
Tepara Waititi	3.588
Tepene Rata or Pene Rata	1.787
Tetuhi or Tehuhi Reweti Peita	16.904
Tihema Clark	5.516
Timi Kuti Peita	1.613
Tipene Ropere Hemi	5.322
Tirita Ropere Hemi	5.322
Titau Herewini Baker	.743
Titiro Ropere Hemi	5.322
Tito Tei Paora	16.106
Tiwene Ngaranui Tiki	1.823
Toeke Piha Whiu	3.510
Toi Piri Whiu	1.118
Toko Ape Kopa	1.347

NAME	SHARE
Toko Paewhenua	11.455
Toko Rapana	6.892
Torotia Rui te Haara	1.152
Toru Hone Kopa	.284
Toti Ngakura Peeni	17.176
Tu Hutango	14.235
Tuako Poakatahi	2.783
Tuhi Hami Tamehana Noa	9.065
Tupu Erueti	15.980
Uru Pani Kopa	15.094
Uru Poukoura Peka	.558
Waata Toenga Matiu	.229
Wai Toko Paraha	.551
Waiataahua Pita Waa Hoterene	18.513
Te Waihoura Kira Henare	2.880
Waiohau Rui te Haara	1.148
Waitapu Keretene	9.192
Te Wana Te Kaha Hati	10.096
Warati Toko Paraha	.551
Te Waru Hone Kopa	.284
Watarini te Haara	14.235
Watariu Korohu Whiu	7.898
Wati Hauraki Niha	.878
Wati Toko Paraha	.551
Te Wehenga Tamihana Noa	9.099
Wereta Hauraki	4.170
Weronika Morehu Paraone	.315
Whakaaronui Rori	16.149
Te Whanahou Kuti	2.048
Wi or Wiremu Hone Kopa	.120
Wi te Hira Nore	10.097
Wi Titore Hemi Peka	4.466
Wi Kamo Ngapera Peka	.743
Wiki Tarawa	1.582
William Nau Inia	18.214
William Korohu Matene	1.132
William Whatarau	20.601
Wini Ngarunui Tiki	1.823
Winiata Ropere Hemi	5.325

NAME	SHARE
Winiata Pirihi Whiu	2.250
Wiraukawa Rui te Haara	1.152
Wiremu Ape or Hoterene	12.372
Wiremu Rui te Haara	1.152
Wiremu Ape Kopa	1.342
Wiremu Hone Kopa	.165
Wiremu Reweti Peita	16.905
Wiremu Toko Paraika Tipene	.753
Wi Wa Here Hoterene	3.843
Total	<u>2177.960</u>

 APPENDIX IV LIVE BUYING SHARES PURCHASED AFTER AMALGAMATION

1	Ruruwhira Pu Neho or Herewini	183.965
2	Napi Te Manu Waa	264.776
3	Piringi Waimarama Hori Kaka	8.027
4	Hana Hapai Wirihana Ihaka	199.894
5	Aorangi Tipene	131.045
6	Te Arani Wirihana Ihaka	199.895
7	Diana Margaret Ruru Rewi or Davis	864.721
8	Hiria Peneha Maru	2392.264
9	Remo Wirihana Ihaka	199.894
10	Te Matauranga R Hoterene	170.294
11	Matekiteara Rotohiko	170.294
12	Rina or Erina Niha Henare	23.488
13	Pene Armstrong	155.389
14	Mereana Henare	23.930
15	Jimmy James	49.275
16	Hohipere Remana Ratahi	63.725
17	Ellen James	49.276
18	Anne Hauraki	25.587
19	Peki Ihaia	140.915
20	Rangihaeata Ihaia Rewiti	140.916
21	Mate Davis	44.638
22	Merepara Whina Davis	44.639
23	Huhana Ihaia or Lyndon	185.250
24	Maraea Tungaroa Waa	36.509
25	Tima Hoterene	19.064
26	Akinini Ihaia	140.914
27	Hita Ihaia	140.914
28	Te Atawhai Peeni or Mrs Bonner	39.538
29	Aperahama Davis	44.639
30	Rihari Rangi Whaikawa	30.893
31	Eni Matini	324.825
32	Rapana Pani Kopa	31.006
33	Mae Waa Waa Hoterene	35.365
34	Ngaronoa Waa Waa Hoterene	35.366
35	Koketahi Davies or Hapi	44.638
36	Ngamiringa Waa Waa Hoterene	35.366
37	Te Arani Waa Waa Hoterene	35.285

38	Ngapuhi Waa Waa Hoterene	35.366
39	Ratahi Pani Kopa	31.006
40	Taaki Tairua	28.087
41	George Hewson	71.145
42	Pera Davies	44.640
43	Wati Peihopa	36.316
44	Kiri Pano Wati Peihopa	88.723
45	Taikohe Mane Peepe	5.305
46	Niha Waa Waa Hoterene	35.366
47	Huihui Pei Hopa @ Mrs Wihongi	36.319
48	Hoori Hoori Keretene	31.000
49	Taite Rewi (Davis) or Taite Wati	31.793
50	Mere (Mereira) Hoori or Hoori Keretene	40.450
51	Maraea Tipene	17.811
52	Mere Winiata	17.811
53	Tawhai Tungaroa Waa	36.509
54	Matini Ihaka Hura	109.447
55	Karu Ihaka Hura	109.448
56	Marama Wi Te Hira	29.701
57	Katerina Hewson	71.145
58	Te Ahua Tia or (Ahu) Manu Tia	80.375
59	Riwhi Tia or Riwhi Toeke Tia	80.141
60	Ra Herewini	2.783
61	Barry Ivan Akehurst	11.062
62	Ronald Paul Akehurst	11.061
63	Ngaire Elizabeth Patterson	11.061
64	Rui Hone Niha	22.318
65	Tihemo Beatrice Peihopa	15.595
66	Honetai Maru Peepe	5.306
67	Pii Maru Peepe	5.306
68	Hare Maru Peepe	5.305
69	Waireti Maru Peepe	5.305
70	Te Mamae Maru Peepe	5.305
71	Huni Maru Peepe	5.305
72	Tokorua Maru Peepe	5.305
73	Te Aroha Shona Peepe	5.305
74	Ripeka Anderson	17.811
75	Moananui Akiwa Anaru	17.811
76	Komene Tairua	9.740
77	Heni Tairua	9.739

Ani Tairua	9.739
Te Ngaronoa (Tom) Tairua	9.739
Raima Tairua	9.739
Te Okerua Tairua	9.739
Wiremu Tairua	9.739
Te Roka Tairua	9.739
Whare Kiwi Paraha	23.125
Hare Peeni	39.041
Rui Tairua	9.740
Matekitawhiti Daphne Lowe or Peeni	36.589
Taaki Tairua	87.652
Keremete Remana Ratahi	38.310
Hine Hera Peeni	34.977
Wire Mahia	49.275
Ngapuhi Hone Niha	22.318
Whata Hone Niha	22.318
Whitiao Manuera (Peeni)	226.875
Pene or Ben Armstrong	40.437
Riwi Hone Niha	22.318
Frank Tungaroa Waa	36.508
Korari Kopa or Ringa or Ringaringa Kopa	28.123
Tawera Mate	33.026
TOTAL	<u>8774.803</u>

APPENDIX V - RECONCILIATION OF CROWN SHARES

The following is a schedule of blocks and total shares to act as a reconciliation of shares the Crown owns in Te Horo.

BLOCK	CROWN SHARES TO TE HORO	
Kaikou A4D	537.700	
Kaikou A4E	494.817	
Kaikou B8B	0.192	
Kaikou 3 Lot 1A3	62.875	
Kaikou 3 Lot 3B	72.233	
Kaikou 3 Lot 4C2B	92.838	
Kaikou 3 Lot 9B2	126.674	
Kaikou 3 Lot 37	28.791	
Kaikou 3 Lot 39	6.538	
Kaikou 4F	<u>181.517</u>	
	1 604.175	
<i>less block charges</i>	105.155	1 499.020
Uneconomic acquisitions	2 438.657	3 937.677
Live Buying	9 749.781	13 687.458
<i>less 10% adjustments</i>	1 368.011	12 319.447
<i>less sales</i>	63.660	<u>12 255.787</u>

8 F P.O. Box 4102
KAMO.

cil

County Chambers,
Springs Flat,
Kamo, N.Z.

Extract from N.Z. Gazette, 23 June 1966, No. 38, page 1001.

Te Horo Development Scheme Notice 1966

PURSUANT to section 330 of the Maori Affairs Act 1953, the Board of Maori Affairs hereby gives notice as follows:

NOTICE

1. This notice may be cited as the Te Horo Development Scheme Notice 1966.
2. The land described in the Schedule hereto is hereby declared to be subject to Part XXIV of the Maori Affairs Act 1953.

SCHEDULE

NORTH AUCKLAND LAND DISTRICT

ALL that piece of land described and situated as follows:

A.	R.	P.	
7,217	2	5.8	Te Horo, Blocks X, XI, XIV, and XV, Motatau Survey District; and Blocks II, III, VI, and VII, Mangakahia Survey Dis- trict.

Dated at Wellington this 14th day of June 1966.
For and on behalf of the Board of Maori Affairs:
B. E. SOUTER,
Deputy Secretary for Maori Affairs.
(M.A. 61/51; D.O. 18/28, 18/28/23)

R. E. OWEN, Government Printer, Wellington, New Zealand

health Act, 1956,
the premises
EIGHTH DAY of JULY,
not complied
application may
the Health Act,
premises.

te Whangarei
t.

ed by or
selling.

11 the owners.

74.

COUNCIL OFFICE

1. THAT the Grantee shall (subject as hereinafter
rights and powers hereby conferred upon it.
of 12 cents per cubi

CONSENT TO AMALGAMATION OF ADJOINING LANDS

The Maori Affairs Act 1953, Section 435 (6)

The Registrar,
Maori Land Court,
TOKERAU DISTRICT.

I, MOETAHI HOTERENE being the Charge Holder under a Charging Order made by the Maori Land Court at Whangarei on the 8th day of September 1965 against the owners of the land known as the KAIKOU X Block excepting thereout the shares in the said land owned by me the said MOETAHI HOTERENE

DO HEREBY CONSENT to an Amalgamation Order being made under Section 435 in respect of the said KAIKOU X and other blocks.

DATED this 11th day of July 1966

SIGNED by the said..... }
MOETAHI HOTERENE :

Mae Shortland

M Hoterene

Witness : R Dunneall

Occupation : Whistor

Address : Whangarei

Ref: 13336

28 August 1979

Messrs Malloy, Bramwell, Moody
and Greville,
Barristers and Solicitors,
P.O. Box 1433,
AUCKLAND.

Attention Mr D. Malloy

Dear Sirs,

I last wrote to you on 28 June 1979 concerning the complaint which you made on behalf of members of the Te Horo Development Scheme Committee. You are aware that the enquiries which have been made so far from the Committee and the Department of Maori Affairs have been for the purpose of helping me to decide whether I should undertake a formal investigation into any of the matters of which you complain, in the light of the jurisdictional limitations imposed by the Ombudsmen Act 1975. You also know that during Mr Workman's visit to Whangarei he looked into the basic grounds of complaint and discussed them with members of the Committee and land owners. He also took the opportunity to examine the Department of Maori Affairs files.

My function is to conduct independent investigations into complaints into any decisions or recommendations made or any act done or omitted, by most Central and Local Government departments and organisations, including the Department of Maori Affairs. A complaint must relate to a matter of administration and affect a person, or a body of persons in his or its personal capacity.

As a consequence, any decision, recommendation, act or omission of a Maori Land Court Judge or Magistrate cannot be the subject of an investigation by me. Nor am I authorised to investigate any decision, recommendation, act or omission in respect of which there is, under the provisions of any act or regulation, a right of appeal or objection, or a right to apply for a review, available to the complainant, on the merits of the case, to any Court, or to any Tribunal constituted by or under any enactment, whether or not that right of appeal or objection or application has been exercised in a particular case, and whether or not any time prescribed for the exercise of that right has expired, unless by reason of special circumstances it would be unreasonable to expect him to have resorted to it. It follows that those grounds of complaint which relate to the exchange or partitioning of land or the demolition of houses subject to a Court order having already been the subject of Court proceedings, cannot be investigated.

I also have a discretion under s. 17 of the Ombudsmen Act 1975 not to undertake investigations in certain circumstances. First,

-2-

s. 17(2) gives me a discretion as to whether or not to investigate a complaint which relates to a decision, recommendation, act or omission of which the complainant has had knowledge for more than 12 months. The majority of the issues raised by the complainants occurred more than 10 years ago. In the light of the enquiries already made I have formed the opinion that I would not be justified in exercising this discretion in favour of the complainants, primarily because with the passage of time, the prospects of being able to carry out a satisfactory investigation or one which could lead to any useful result, are marginal.

Secondly, s. 17(1) provides that I may decide not to investigate a matter if it appears to me that under the law or existing administrative practice, there is an adequate remedy or right of appeal, other than the right to petition Parliament, to which it would be reasonable for the complainant to resort. I have considered the complaints in the light of this provision. As I understand it, since the inception of the Te Horo Development Scheme, two owners' representatives, recently increased to three, have been added to the departmental Development Committee. Their function is to safeguard the interests of the owners, to make complaints to the department on behalf of the owners, and to participate in the management of the Scheme. It is my view that they are in a position, and should be expected, to take an active part in decision making so that as the prospect of incorporation draws near, they may develop managerial skills and thereby demonstrate their ability to control such an enterprise.

In addition, all owners have an opportunity at any time to make complaints or seek information, either personally, through the owners representatives, or at the Annual General Meeting of owners. I therefore examined the complaints with the following questions in mind in order to decide whether, during the period in question, there was a reasonable opportunity available for the owners or their representatives to ventilate any complaints, and if so, whether they took this opportunity.

- (a) Have the owners or their representatives sought information or made representations to the Department of Maori Affairs in the past?
- (b) Were these matters dealt with adequately by way of explanation or remedy?
- (c) Have the representatives of the owners taken reasonable steps to remedy complaints or provide owners with information?
- (d) Have the representatives taken reasonable steps to involve themselves in the management of the Scheme and participate in the decision making process?

My tentative view is that there was and I have decided to set out in this letter the result of my enquiries so that owners may be aware on what basis I reached that opinion.

Smith

/...

-3-

Failure to fill assurance that families would be resettled within five years.

I note that currently the preferred form of organisation and control over the land, once developed, would be by way of an incorporation. When the development was first proposed by the Department of Maori Affairs most owners were in favour of resettlement. However the legislation which was enacted in 1929 recognised a need to overcome the problems of multiple ownership and undefined titles in the interest of getting Maori land into production for the benefit of the Maori people. The Minister was accordingly given power to declare the land subject to the development provisions and in doing so, to suspend the owners' rights of occupation, so that development could be carried out and occupiers appointed. These powers were carried forward into part 24 of the Maori Affairs Act 1953.

After consultation with the owners, the Maori Land Board may declare the land subject to part 24. The Board has authority to expend money on development without any form of security other than gazetting the land subject to part 24. After development, the Board may farm the land to recover development costs or may transfer the land back to the control of the owners by way of incorporation or appointed trustees or, alternatively, may settle the land by leasing to Maori farmers on such terms and conditions as the Board may decide. The Board has the advantage of access to Government finance at low rates of interest and also of being able to farm the land in large blocks with heavy stock numbers to facilitate land improvement.

My examination of departmental files show that on 20 October 1965 a meeting of owners was held in the Pipiwai Hall. At that meeting the District Officer, Mr K. Laurence, reported to the 73 owners present that it would be a minimum of 10-12 years before the owners would be able to take over the land themselves. Mr Hugh Bristow told Mr Laurence that 4 or 5 years had been mentioned as the period at an earlier meeting. Mr Laurence agreed that had the scheme proposals been restricted to the smaller and better producing areas, the period needed to reduce the debt to manageable proportions would have been less, possibly only 5-6 years. However, with the larger scheme as then envisaged, the longer period would be necessary. At that meeting the owners present decided that they wanted the Department of Maori Affairs rather than the Lands and Survey Department to develop the block.

The Maori Land Court hearing took place on 26 November 1965. I have examined the minutes of this hearing which can be found in the Whangarei Minute Book 41, folios 79 - 114. There is no mention in the judgement of a time at which the land would be resettled.

Exclusion of the Mangakowhoro Block from the Development Scheme

You state in your letter of 27 March 1979 that it was not until receipt of my letter of 19 December 1978 that members of the Development Committee became aware that the Mangakowhoro Block was not included in the Development Scheme. The record of the Court hearing mentioned above establishes that the only part of the

-4-

Mangakowhoro Block included in the Scheme was Mangakowhoro B4E2, and this was the only block referred to by the department in its application. An examination of the Court minutes shows that Mr Moe Hotorene, also known as Shortland, asked whether the Mangakowhoro Block was included in the Scheme. Mr Kerr, Surveyor for the Department of Maori Affairs, told the Court that Mangakowhoro Block B41 had been excluded from the Scheme. Judge Gillander Scott amalgamated the blocks in a Court order dated 17 December 1965. A list of all the blocks which were amalgamated into the Scheme is available from the Department of Maori Affairs or the Court.

Failure to consult with, and have proper regard to, the wishes of owners and the Development Committee

There are several matters to be considered under this heading. An examination of the minutes of the Committee meetings from 22 October 1965 shows that at several meetings prior to the amalgamation, owners were given a full explanation as to its nature. However, I accept that it may have been a difficult concept for owners to grasp or accept, particularly in the light of their own cultural values and attitudes in respect of land and land ownership.

I took note of a letter from the District Officer to an owner in 1972, which in answer to a question relating to the occupation of a house on the block, set out the concept of amalgamation in simple terms. You may find it helpful in explaining the concept to any owners who may still be unclear as to what is involved. The relevant passage reads as follows:-

"I have to say that the house is not on your land - what is, you are not the only owner. The house was built for the Development Scheme on land which used to be your block. When the business of getting land together to start the Development Scheme was before the Maori Land Court, 62 small blocks of land were taken and put together in one title. Now instead of having 62 listed owners for different bits of the Scheme, there is only one listed owner which covers all the 7000 acres. Each owners who had shares in any block had his name put on the new Topu list for the value of all the shares he owned before the lands were put together in one title."

"There are now 96 owners in the Scheme - the whole 7000 acres of it. You have just over ... shares in the scheme. That is, ... shares in the 7000 acres. The pieces of land you used to own now has the same 96 owners, but you have shares in all the lands which make up the Topu.

"All the shareholdings were worked out by values. The total value of all your shares in the separate blocks which went to make up the amalgamation for the Development Scheme, were added together and you were allotted the value you were entitled to."

/...

At a meeting on 29 November 1968 when the matter of amalgamation was again raised, the District Officer pointed out that owners had had the opportunity to oppose amalgamation at the time of the Court hearing and he cited the case of J. Henare, who had objected and had had his 103 acres excluded from the block.

You have cited several examples of alleged failures by the department to communicate effectively with the Development Committee or the owners. First, the transfer of land between Mr C. Tipene and the Niha family. An examination of the departmental file shows that on 26 February 1971 the department made a proposal to obtain the consent of the Maori Affairs Board pursuant to s. 330(5) of the Maori Affairs Act 1953, to a petition of the land owners of Te Horo block to enable the exchange of 94 acres of the land for 91½ acres of Pipiwai A2. Pipiwai A2 is owned by Mr and Mrs Charles Tipene and is a long narrow back block stretching from the Hikurangi River up into the hill country of Te Horo. There was a common boundary of some 135 chains with the Scheme and the intention was to exchange the greater part of A2 for a similar area of the Scheme. The exchange would:

- (a) shorten the fence line between the Scheme and the Tipene farm by some 90 chains;
- (b) straighten the boundary and improve utilisation;
- (c) make the Tipene farm more compact.

The fence line already ran along the proposed new boundary and the Tipenes had agreed to an equality of exchange. At a meeting of owners on 13 December 1969 it was moved by H. Bristowe and seconded by Moses Peihopa that the exchange of land be approved. The resolution was put to the meeting and carried unanimously.

You also mentioned a proposal made by Winiata Shortland to have land partitioned in his name. The Development Committee on behalf of the owners, approached the department with a proposal by Winiata Shortland who owned 155.033 shares in the Te Horo Block and had made an application for a housing loan and requested permission to partition out a site for himself. The Development Committee was in agreement. The department then put a proposal to the Board of Maori Affairs that it should consent to partition off 0.28 acres of the area and the proposal was the subject of a Court order approved on 9 July 1972. However, the County Council would not agree because the soakage area was inadequate for the effluent disposal system. A proposal was then put forward to amalgamate two lots and Mr Shortland had sufficient shares to offset the amalgamation. The Head Office Committee approved the amendment on 17 August 1976.

You also made reference to a transaction that took place between Mr Prime Cooper and J. Ape. I note that Mrs Prime Cooper bought back 10,858 shares converted by the Maori Trustee as an uneconomic interest, being shares of her grandfather Hoana Henare, since deceased. Shares were transferred to her on the same basis as to Hugh Bristowe and Charlie Tipene. The prospective successors to Hoana Henare had first been approached and had agreed to the transaction. Prime Cooper was an owner in his own right and his

-6-

shares were originally purchased under the compulsory purchase clause at the time of the amalgamation. Mrs Cooper has since purchased further shares from the Maori Trustee. I note that the Assistant District Officer, Mr H.E. Pouy wrote to Mr Moses Shortland on 23 November 1978 setting out these facts.

Finally you allege insufficient communication between the Development Committee and the Department of Maori Affairs relating to the purchase of the Yates property. My enquiries show that before the department recommended to the Maori Land Board that the Yates property should be bought, the owners' representatives on the Development Committee were fully consulted and on behalf of the Maori owners requested that the department buy this land. They were directly involved from the start of the negotiations, and because the land was being offered at an attractive price, it was considered imprudent to publicise the offer. The purchase was made on behalf of the Maori owners only and in the result their percentage of shares was increased at the expense of the Crown. The purchase and the subsequent demolition of the house were fully discussed at annual general meetings on 10 November 1976, 8 November 1977 and 6 November 1978.

My examination of the departmental files satisfied me that the departmental members of the Development Committee and departmental officers were always prepared to meet and discuss with the owners' representatives any problems relating to the management of the Te Horo Development Scheme. On the other hand there seems to have been a noticeable lack of communication between those representatives and the other owners over the years. I can find no record that the Development Committee met during 1978 and I note that on 6 November 1978 at the Annual General Meeting Mr Davis accepted that there had been a failure on the part of the Development Committee representatives to meet regularly with departmental officers. Subsequently, a complaint was made by 11 owners to the District Officer concerning an alleged lack of communication and co-ordination on the part of the owners' representatives. They alleged that the two representatives had in many instances acted independently without either acknowledging the Committee or informing shareholders, that some decisions made by the Committee had not been passed on by the Chairman to the department, let alone discussed, and that attendance by one of the owners' representatives was erratic. They asked for a new election of representatives.

In short over the past five years in particular the department has made considerable efforts to maintain communication with the owners' representatives on the Committee but there has not been the same willingness to cooperate on the part of those representatives. I note for example that the District Officer wrote to the Development Committee on 17 January 1979 and again on 5 February 1979 concerning a proposed meeting at the Marae on 12 February 1979. The correspondence suggests that the department was having considerable difficulty in getting the owners to co-operate. The departmental files include very little correspondence from the Development Committee and show that it has generally failed to raise matters of concern with the department, other than at Annual

/...

-7-

General Meetings. I am satisfied that the department has dealt with any problems that have been raised in a proper and industrious manner.

You are concerned that a number of dwellings occupied by shareholders have been either demolished by the Department or by the owners at the request of the department and you refer in particular to houses once occupied by Fatu Feihopa Ue Fapa, Eru Waa, Pii Paora and Eru Matine. I can find no reference to this on the departmental files and it would seem that all the houses were demolished some 14 or 15 years ago. I do not consider that I would be justified in asking the department to make enquiries into the matter at this stage. Other properties have been the subject of discussion and correspondence over the years. I refer to houses and property owned or occupied by Mr Hoë Shortland, since deceased, Mr Motatau Shortland, Mrs Ataiti Armstrong and John Shortland. Complaints on these matters have been fully ventilated in the past. I would suggest that if any doubts still exist, the Committee should write to the department and seek clarification of any point on which they are uncertain. It seems to me that this is one of the functions of the owners' representatives. They are elected to represent the interests of the owners collectively and individually and have the responsibility of communicating and negotiating with the department on any matter of concern in an effort to resolve it. This should be the first avenue of approach and until the department has been given the opportunity to deal with an issue, I have no justification for intervening.

The Development Committee has alleged mismanagement and improper financial control of the Scheme. Again a study of the files shows that the owners' representatives have been encouraged to take an active part in management. It also shows that many matters of principal concern, which relate mostly to the past, have been discussed fully at meetings of the Development Committee and at Annual General Meetings. I refer to such issues as stock theft, reversion of pasture, the quality of farm management, and experimental work. It seems to me that the best way to resolve any remaining problems is for the Committee to take a continuing and active interest in the day to day management and to work with the department in developing the Scheme to its full potential.

For the reasons set out above, I do not believe I should undertake a formal investigation into the grounds of complaint. However, I should like all the owners to have the opportunity to consider the reasons why I have come to this conclusion. Accordingly, I would invite you to make available to the owners before the next Annual General Meeting copies of this letter and to tell them that I would be happy for Mr Workman to attend the meeting and discuss its contents with them. Before I advise the Secretary for Maori Affairs of my conclusion I invite your agreement to my proposal.

Yours sincerely,

Chief Ombudsman.