Porirua ki Manawatū Inquiry District

'Public Works Issues'
Summary Presentation

for

Ngāti Raukawa and Affiliated Groups Phase Hearing Week 3

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Introduction

1. This presentation summarises the material relating to the Ngāti Raukawa and affiliated groups inquiry in the 'Public Works Issues' report (Wai 2200 #A211). The research for this project included the compilation of every gazetted taking of land in the district under the Public Works Act up to 2010 into a spreadsheet to accompany the report. This summary presents some overall figures from the spreadsheet, and then focuses on the major public works issues for the district: roading; railways; river control and drainage; and the Otaki Sanatorium. (A full list of relevant sections in the report can be found at the end of this summary).

Spreadsheet Database Analysis

2. The Porirua ki Manawatū Public Works Takings spreadsheet includes 447 entries for Māori land taken between the Kukutauaki Stream and the Rangitikei River[1] (excluding the Horowhenua block).[2] The number of takings from all forms of ownership (Crown, European, Local Authority, and Māori) was 4,895.[3] The percentage of takings from Māori land was approximately nine percent.

3. Out of the 447 Māori takings, 344 were taken for roads. Of that 344, 138 were taken under the provisions of the Māori land laws which allowed for up to five percent of a block to be taken for roads without compensation. This should be considered as the minimum impact of roading on Māori land ownership, as the Crown also had other legal means to have public roads declared on Māori land without proclamation in the New Zealand Gazette.

4. The next largest category was 46 takings for river control and drainage purposes. There are 20 takings in the database for railway purposes, but that does not include the land purchased for railway lines (see below). The other purposes for which land

[1] While the boundary has been taken as land to the south of the Rangitikei River, an exception has been made to include the Ohinepuhiawe blocks on both sides of the river at Bulls.
[2] While all reasonable care has been taken, the extraction of regional figures from the database may not be exact, as it requires filtering by survey district and blocks, which do exactly accord with the boundaries of the Ngāti Raukawa and affiliated groups inquiry or Native Land Court block boundaries.
[3] This figure was calculated by extracting data from the Ongo, Apiti, Umutoi, Oroua, Pohangina, Te Kairanga, Gorge, Moutere (excluding Horowhenua Block), Mount Robinson (excluding Horowhenua block), Arawaru, Waitohu (excluding Horowhenua Block), Waiopehu (excluding Horowhenua Block), Taungata Survey Districts, and Blocks II, III, IV, V (excluding Ngarara Block), VI, VII, VIII of the Kaitawa Survey District, and Blocks IV, VIII, XI (including Bulls), XII, XV, XVI of the Rangitoto District, Te Kawau Survey District except for Block I, and Sandy Survey District except for Block I.

was taken include education, post office and telegraph, sewage treatment, health, noxious weeds, gravel pits and housing.

Roads

5. The creation of a roading network went hand in hand with the acquisition of land from Māori for European settlement. As the Crown subdivided blocks to be on-sold to settlers, it was standard practice to lay out road access to each parcel of land. This also involved constructing roads over Māori land to reach Pākehā settlements. Roads were seen as vital for regional economic development, allowing stock, crops and other resources such as flax to be transported to the coast for shipping to Wellington and other markets.

6. Prior to the Public Works Act 1876, roads were a matter of negotiation between local rangatira and Crown officials, tied up with the politics of expanding Pākehā settlement into Māori districts. For rangatira, granting permission for roads through their lands was done in the context of developing their relationship with the Crown, and reflected their attitude towards encouraging settlement. During the 1850s, instead of paying Māori for the land used for a road, hapū were paid to construct the road, while the land under the road remained in Māori ownership. The income which could be earnt from road works was seen by the Crown as a way of encouraging Māori to sell land for European settlement. In 1852 Donald MacLean reported that many Māori communities were enthusiastically engaged in creating roads.

7. The significant rivers running through the district meant that ferry services were required for travellers. Local Māori could be paid to provide waka for river crossings, and an area of land at the crossing came to be required as ferry landing and accommodation sites. A variety of arrangements were made for such landing sites, with some being leased or gifted while others were purchased. At Ohau the Crown negotiated to acquire the land. A lease was initially arranged for the site of a pilot station on the north bank of the mouth of the Manawatū River, however the Crown then permanently acquired the land as part of the Awahou block purchase. Some of the former owners claimed that the pilot station had not been sold, and repeatedly sought the payment of rent and/or the return of the land. At Otaki the provincial government leased a ferry landing site.

8. The majority of the main roads laid out in northern Manawatū passed through lands already in Crown ownership. However, the pockets of Māori reserves within the Crown purchases meant that roads needed to cross some Māori land to link the Crown and European areas. As the Crown purchased large blocks, complaints and negotiations over reserves were linked with the question of permitting roads to be constructed through the remaining Māori areas. Closing roads became a method of exercising rangatiratanga, and was also used as a strategy to draw attention to wider grievances. Nevertheless, there is evidence that throughout the 1870s many Māori continued to be actively engaged in road making.

9. After public works and Māori land laws were passed which allowed land to be taken without compensation and little, if any, consultation, a change of attitude became evident. Māori communities along the route of the Foxton to Otaki road perceived that their willingness to engage in road building was coming at the cost of their whenua. Previous arrangements to allow the land to be surveyed changed to requests to be paid for their land, and some actions taken to prevent the survey. The council responded by invoking the powers which allowed up to five percent of a block to be taken without compensation, and dismissed the objections. A total area of 163 acres was taken from Māori land for the inland road, which is now the route of State Highway 1.

10. At the same time, a vehement dispute arose over access through Māori customary land as part of the coastal route at Foxton. While Māori were strongly opposed to any of their land being taken for the road, the council threatened to invoke the compulsory powers to take land without compensation. There was growing Māori dissatisfaction at the way councils and road boards ran road lines through Māori blocks. The local Māori MP told parliament that Māori land seemed to be unfairly affected compared to private land, and that roads were being created through Māori blocks for the benefit of settlers. The reliance by local authorities on using the five percent provisions under the Native land laws, meant there was no requirement to consult with Māori about the routes of roads. The provisions contained within the Public Works Act, which might have given Māori more protection, were thus ineffectual in these cases.

11. The examples given demonstrate that roading authorities generally tried to ensure that roads were laid off within the 10 or 15 year period which did not require

compensation. Under the warrant system there were specific requirements for the surveyor to meet with owners on the ground and present them with the warrant. In many of the examples given, although the Surveyor General was concerned to meet the legal requirements, the surveyors themselves did not seem to know what those requirements were. In a number of cases different warrants were issued, and surveys were repeated because of irregularities with previous surveys.

12. The most striking example is the Reu Reu block, where road lines were first surveyed in 1883. An extended history of mistakes and confusion when implementing the surveys, and the desire of roading authorities to avoid paying compensation, meant most of the roads were not legalised until 1910, and one portion was not finalised until 1931. Reu Reu also provides a clear case of a road being taken unfairly from Māori land. A factor in the road board's decision not to proceed with legalising the surveyed road in the 1890s may have been because Reu Reu was a Native Reserve and there was no legal power at the time to take roads from reserves without paying compensation. After the legislation was changed the council again sought to legalise roads over the block.

13. In 1905 a new road line was required because one of the original roads had been washed away by changes in the course of the Rangitikei River. The area where the road was required adjoined a section of European land owned by Pryce. It was usual practice that when a road ran between two blocks, that the same amount of land was taken from each block. However, in this case the road was laid out completely on the Māori land, and not on Pryce's property. Pryce would have sought compensation for any road taken from his land, whereas the Reu Reu land could be taken without cost to the council. Local Māori immediately protested that some of the road should be on Pryce's land. Furthermore, the deviation interfered with cultivations and was close to their houses. In spite of official instructions that the survey was not legal, the council continued to seek to have the road proclaimed, and denigrated the nature of the Māori cultivations on the land. While the dispute over Pryces Line continued, the other roads through the Reu Reu blocks were proclaimed as taken in 1910, just before the right to take land without compensation expired in 1911. The total area taken at this time was 74 acres.

14. In 1921 the issue of Pryces Line was raised again when the Native Land Court was asked to declare it a public road. Judge Acheson refused to accept arguments that

it should be considered a public road, and was very critical of the original decision to not lay the road partly on Pryce's land. He concluded that it would be unfair to expect Māori to sacrifice their land for the full width of the road. However, Acheson's decision was annulled by the Appellate Court on the grounds that the Native Land Court did not have jurisdiction. Pryces Line was finally declared a public road by the Native Land Court in 1931, when a different judge was satisfied that it was in the public interest and there were no objections. However, when the road was surveyed Māori objections meant the width of the road had to be slightly reduced.

15. Although the main routes through the district were laid down at the end of the nineteenth century, since then the roading network has naturally expanded. As motor vehicles became the main form of transport, more and more emphasis was placed on ensuring that all sections of land were provided with some form of road access. For Māori land this has meant the use of orders under the roading provisions of the Māori Land Court legislation both with and without compensation. A roading scheme in the Himatangi block between 1957 and 1970 saw approximately 36 acres of Māori land (including existing court roadways) declared public roads, without any compensation.

16. The existing main routes have seen numerous alterations and upgrades. Every deviation, road alignment or road widening required the acquisition of narrow strips of land from adjoining blocks. These were usually done under the provisions of the Public Works Acts, and it became more and more common for councils or the Crown to negotiate with the owners before the land was proclaimed. The case of Pukehou 5B1 and 5L is an example where a road was not properly legalised in the nineteenth century. Nevertheless, authorities had assumed it was a legal road, and because it was marked on plans and had been used as a public road, that meant it met the requirements to be declared a public road in 1948. In such cases no consideration was given to whether Māori should have been compensated for the use of their land as a road for decades without proper legal authority, and no compensation was paid on the grounds that Māori land owners were assumed to have benefitted from the road.

Railways

17. The first use of the Public Works legislation in the Porirua ki Manawatū district was for railway purposes. When Julius Vogel passed the Immigration and Public Works Act 1870 a railway network was key to his plan to expand Pākehā settlement. Transporting both timber and flax from the inland Manawatū to the coast was a key part of the economic development of the region. The railway was also designed to link the large areas of land purchased by the Crown, and railway stations were seen as valuable additions to new settler communities.

18. The laws regarding taking land for railways had less protections for owners than taking land for other purposes. Railways were considered so important that land acquisition was almost automatic once the line of the railway had been determined. There was no provision for objections, and the registration of the survey plan resulted in the land being acquired. This applied to both Māori and European land, but there was one provision which was discriminatory against Māori. Under Section 36 of the Immigration and Public Works Act 1872 up to five percent of a Māori block could be taken without compensation in the same way as for road lines.

19. The majority of the railway line from Palmerston North to Whanganui passed through lands already in Crown or private ownership. However, the pockets of Māori reserves within the Crown purchases meant the railway line had to cross some Māori land to link the Crown and European areas. Between Turakina and Bunnythorpe a total of 448 acres was set aside or acquired for the railway. Of that 56 acres were from Māori land, and 134 acres from European land. The remaining 258 acres was Crown land which had been reserved for road and/or railway purposes.

20. Few details have been located about taking the railway land from the Kakariki, Kawakawa, Upper Aorangi and Taonui-Ahuaturanga reserves. While the land could be taken without compensation, it seems that the Crown took the approach of negotiating to purchase the railway land. Although details are sparse, the Crown purchased and paid for the land taken from Kakariki, Kawakawa, and Upper Aorangi. Research has not been able to confirm whether or not payment was made for the line through Taonui-Ahuaturanga. Questions remain as to whether any consideration was given to altering the line to avoid Māori land, the nature of the

negotiations and the attitude of the affected hapū towards the railway. Although technically a negotiated purchase, it seems unlikely that Māori communities had a genuine choice in the matter as the line of the railway had been already been determined, and survey work had commenced in the early 1870s.

21. The railway line at Kakariki had attracted Māori opposition since at least 1871. Not surprisingly when the Crown decided to take more Māori land at Kakariki in the late 1880s, local Māori objected. In 1888, 25 acres of Paiaka Native reserve was proclaimed as taken for the purposes of a railway ballast pit. However, opposition from the owners meant that although it was technically taken in 1888, it was not until 1893 that an arrangement was made to allow Railways to use the land. The arrangement was unique in the district, in that once Railways had removed all the ballast required, the land would be returned to the owners. Although the agreement allowed Railways to use the ballast pit temporarily, the legal position was that the freehold of the land had been vested in Crown ownership as a result of the 1888 proclamation. By the time the ballast pit was no longer required in 1911, officials were unaware of this agreement, and leased the land to a Pākehā farmer. It was only after objections from local Māori that the Crown acknowledged its obligation to return the land, although the revesting was not achieved until 1919.

22. The construction of a link between Palmerston North and the coast at Foxton started as plans for a road, but the swampy nature of much of the route meant that a wooden tramway was laid in 1872. In 1875 it was proclaimed as the Foxton to Manawatū Railway. The route passed through Māori reserves between Himatangi and Oroua Bridge. Details have not been located about any arrangements made for laying off the original road line through the Māori reserves. A further proclamation was issued in 1883 taking land either side of the original road/railway line to allow sufficient width for both the road and railway. At this time almost 58 acres were acquired from Māori-owned blocks, indicating that the total amount of Māori land used for the Foxton-Longburn Railway and adjoining road was approximately 116 acres. The railway route ceased operation in 1959. In the early 1960s, portions of the railway land were declared Crown land, and some areas were disposed of to the adjoining land owners. However, title records indicate that some of the former railway land adjoining Māori-owned blocks at Himatangi has

remained as Crown land, while in other cases it has been revested in the adjoining Māori block.

23. The main trunk railway line between Palmerston North and Wellington was not constructed by the Crown, and most of the land over which it runs was not acquired under the Public Works Act. Instead, the Crown permitted a private company to construct and run the line. The Crown facilitated the private railway by allowing Crown land to be used for the line, and empowering the Wellington to Manawatū Railway Company to negotiate with European and Māori land owners to obtain land for the railway. The Crown also assisted the company by subsidising its costs with large grants of Crown land for on-sale to settlers. Therefore, not only did government delegate the power of making a railway to a private company, but to a large extent it also delegated its role of providing for Pākehā settlement in the Kapiti/Horowhenua/Manawatū districts. The Wellington and Manawatū Railway Company in essence became a land development business as well as building and running the railway. In 1908 the Crown took over ownership of the Wellington to Manawatū Railway.

24. The acquisition of Māori land for the railway took place under the provisions of the Railways Construction and Land Act 1881. The Act contained separate provisions for the acquisition of Māori land, which allowed the company to negotiate purchase or cession agreements with the owners. The Native Land Court was empowered to investigate any deed and make an order vesting the land in the company.

25. Little evidence remains of any negotiations carried out between the company and Māori. Newspaper accounts suggest Māori agreements were based on the argument that their communities would economically benefit from the railway line. The process was that the Native Land Court partitioned the areas purchased as separate 'Railway Reserve' blocks which could then be transferred to the company. In this manner a total of 355 acres of Māori land was acquired for the Wellington to Manawatū Railway in the Ngāti Raukawa inquiry area. The success of the venture for the company relied on Māori being willing to sell the land for relatively low prices, and some of the rangatira accepted shares in the company in lieu of cash.

26. Between 1900 and 2010 there were 529 takings for railway purposes in the whole Porirua ki Manawatū district, but only 14 of these were from land in Māori ownership (and only 5 from the Ngāti Raukawa area). The relatively low number of takings from Māori ownership after the main line had been constructed may be explained by the way that the rail corridor itself brought development to the lands adjoining the railway. The advent of the railway made Pākehā settlement more attractive and land purchases followed the opening up of Māori areas. Thus while Māori communities were told in the 1880s that the railway would bring economic opportunity and increase the value of their land, the reality was that it was part of the process whereby Māori land was transferred to Pākehā ownership.

River Control and Drainage[4]

27. From the viewpoint of developing the infrastructure of Pākehā settlement, the Otaki, Manawatū and Rangitikei Rivers were major features that needed to be bridged for the road and railway network. The transformation of the adjoining bush and wetlands into pasture meant that settlers and local authorities saw the need to control the flow of rivers to prevent flooding and land erosion, and to protect bridges. Māori values relating to waterways, and differing uses that Māori communities had for rivers and wetlands were not taken into account when making decisions about river control, drainage and land acquisitions.

28. Between 1945 and 1946 Public Works carried out straightening and planting work along the Otaki River west of the highway. This work was done without legal authority, and no attempt to seek consent from Māori owners. In 1953 the Crown decided it needed to take the freehold on both sides of the river under the Public Works Act. The council intended to allow commercial gravel extraction in the area. In 1954, 100 acres of 'ungranted' customary Māori land was taken for river control purposes. It seems no steps were taken to arrange for compensation to be paid until 20 years later. In 1974 compensation was negotiated by the Māori Trustee, but only 5 years' interest was paid. A further 96 acres was taken from various Māori blocks adjoining the river in 1956. In this case Public Works reported it was too difficult to identify the owners to obtain their consent, and instead Māori Affairs agreed to

[4] A number of important reports covering different aspects of the waterways in the district have already been presented to the Tribunal. The Public Works Report had a very narrow focus on the processes used to acquire riverbeds and land adjoining rivers under the Public Works Acts. The report has not examined the cultural significance or traditional use of the waterways, nor the impact of the takings on local hapū.

the land being taken. The Māori Trustee negotiated compensation on behalf of the owners. Part of the agreement was that the owners would be able to use the riverfront reserve to access their blocks, which meant no compensation had to be paid for injurious affectation. A total of almost £1,000 was paid for the 96 acres.

29. A further 25 acres of 'ungranted' Māori land along the Otaki River was taken under the Public Works Act in 1961 for the purposes of noxious weeds control. Once the council had cleared the lands of weeds, it planned to sell it to neighbouring farmers. At no point did officials question why the council needed to permanently acquire the land, when it was possible for the necessary weed clearance to be undertaken in the short-term without acquiring the freehold. Effectively, the Crown and the council were making use of the Public Works Act to transfer a piece of customary Māori land to private ownership, because the council felt that was the best way of keeping weeds under control. At least one local Māori objected to the land being taken, but that objection was dismissed, and the Māori Land Court approved the taking.

30. In 1931 a notice of intention was issued to take land from Ohinepuhiawe 140 and 141 for river control purposes to protect the approaches to the bridge at Bulls. The council wanted to prevent further erosion by planting trees along the riverbank. An initial suggestion to lease the land from Māori was rejected as the council was concerned about ongoing maintenance. The owners objected on the grounds that it would make their dairying operations uneconomic. An agreement to take 54 acres was then negotiated between some owners and the council, which included Māori being employed for the tree planting work. Given that the owners were carrying out the tree-planting, and recognised that protecting the land from erosion was in their interests, it is difficult to see why it was necessary for the freehold to be acquired.

31. The Whirokino Cut was a radical alteration to the course of the Manawatū River at Foxton. By cutting across the neck of the loop of the river, the spillway was designed to provide flood protection for adjoining farmers. A total of 155 acres was taken in 1943 for river diversion purposes, of which approximately 28 acres was taken from two Māori-owned blocks: Whirokino 3 and Te Rerengaohau 2B. In the case of Whirokino 3, the registered owner was deceased and consent was sought from the neighbouring Pākehā farmer who was using the land. The owner

of Te Rerengaohau 2B was a minor, but her trustees (who were members of her whanau) signed an agreement. When compensation was assessed by the Native Land Court, the land was described as having very little value, and the court agreed the owners did not need to be represented or have a valuation made on their behalf. The court awarded £41 compensation in line with the government valuation.

32. In the 1890s, 95 acres were taken for drainage purposes from Māori land in the Lower Aorangi blocks at the junction of the Oroua and Manawatū rivers. The drainage boards wanted to prevent flooding along the Taonui Stream to protect the road and railway line. However, for Māori the stream and flood prone areas had been an important fishery. As well as compensation for the land taken, Māori sought compensation for the destruction of the eel fishery. Such was the value of the stream for hapū that they claimed £3,000 in damages. The Native Land Court minutes provide extensive evidence about how Māori used the wetland for various food and other resources, and the importance of the annual flood. On the other hand, Pākehā settlers and valuers considered the land poor quality because it was flood prone. While £228 compensation was awarded for the land taken, the court rejected the value placed on the fishery by local Māori, awarding only £20 for damages.

Otaki Sanatorium

33. The hospital at Otaki was first established in 1899 on land which had originally been gifted to the Church Missionary Society, when the Mission agreed to lease land for a hospital site. The Wellington Hospital Board then decided to acquire the freehold of the leased site as part of a sanatorium for tuberculosis patients, along with a larger area of land from both the Mission Trust and neighbouring Māori land owners. Research has been unable to locate the Public Works file relating to the hospital site, which has meant that questions remain about the extent to which Māori were consulted before the acquisition and any compensation negotiations which took place with the Mission Trust.

34. In 1906, 39 acres were proclaimed as taken from the Church Mission Grant for hospital and sanatorium purposes. In July 1906, 37 acres were taken from Waitohu 11C2 and Haruatai 7. Although the blocks were Māori freehold land, a Pākehā lessee had purchased some undivided interests in Haruatai 7. The board had negotiated with the lessee before the land was taken. One Māori owner objected

after the notice of intention was issued, but the board dismissed his objection. A further 13 acres were taken from 3 other Māori blocks in September 1906. At the compensation hearing the Native Land Court found that the valuations presented by the Crown were too low, and awarded compensation based on adding 40 percent to the government valuation. The total award was £915.

35. The sanatorium was closed in 1964 and vested in the Palmerston North Hospital Board. Following usual procedure the Crown offered the site to other government agencies for alternative public uses. Otaki Māori argued that if the hospital was closed it should be returned to the former owners, including the land taken from the Mission Trust. As compensation had been paid for the Māori land taken, the Crown considered there was no obligation to revest the site. This was in line with the provisions of the Public Works Act 1928. The former hospital was then used as a residential facility for intellectually handicapped youth until 1987. In 1970, sixteen acres of the hospital land were set apart as a recreation reserve and vested in the Otaki Domain Board. It is now part of Haruatai Park. After the institution was closed, it was no longer required by MidCentral Health. In 2002 the remaining land was transferred back to the Crown and is now held as part of the land bank for future settlements.